

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
July 11, 2011 – REGULAR MEETING

The Board of Commissioners of Transylvania County met in regular session on Monday, July 11, 2011 at 7:00 p.m. in the large courtroom of the Transylvania County Courthouse.

Commissioners present were Larry Chapman, Jason Chappell, Chairman Mike Hawkins, 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: *The Transylvania Times* – Mark Todd

There were approximately 35 people in the audience.

CALL TO ORDER

Chairman Mike Hawkins presiding called the meeting to order at 7:03 p.m.

WELCOME

Chairman Hawkins welcomed everyone to the meeting and thanked the members of the audience for participating in their County government. Chairman Hawkins introduced the members of the Board of Commissioners and staff.

PUBLIC COMMENT

Anne Theresa Emma: Ms. Emma is a resident of Pisgah Forest. She said she is a fervent supporter of the animal shelter and she expressed several areas of concern. She inquired about why the County does not use the Macon County animal shelter plans or at least an adaptation of the plans instead of using the expensive plan created by Daggett and Grigg Architects. She urged the Board to use the Library and hospital models for fundraising because they were very successful. Ms. Emma also urged the Board to use the funds set aside for the animal shelter only on the animal shelter project and for future ongoing costs. Furthermore, she encouraged County officials to work with Dr. Brooks to obtain grant funds for a spay and neuter clinic. Ms. Emma said she is willing to volunteer her time with any group that is active in planning and operating the animal shelter.

Gerry Hunsicker: Mr. Hunsicker reported that at a November meeting the Board of Commissioners agreed to draft a resolution that addresses the reclassification of all streams in Transylvania County and he urged the Board to move forward with that. He said he continues to follow legislation and bills in Raleigh to ensure that the Boylston Creek reclassification is not snuck onto another bill without the public's knowledge. Mr. Hunsicker said he will continue to stand up for 5th Amendment private property rights issues.

Pete Peters: Mr. Peters lives within the City limits of Brevard and he urged cooperation between the City and County. He commended the Board for moving forward with the septage pretreatment facility because he believes it will help citizens and keep costs down. Mr. Peters also asked the Board not to do things that may be counterproductive and to cooperate with the City on all issues, not just some. Lastly, Mr. Peters commended the County for agreeing to convey property to the Brevard Rescue Squad.

AGENDA MODIFICATIONS

There were no Agenda modifications.

Commissioner Hogsd moved to approve the Agenda, seconded by Commissioner Chapman and unanimously approved.

CONSENT AGENDA

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

The following items were approved:

MINUTES

The minutes of the May 23, 2011 regular meeting were approved.

PRESENTATIONS/RECOGNITIONS

RECOGNITION OF EDGAR P. "ED" ISRAEL

Commissioners wish to recognize Ed Israel for his service and commitment to the citizens of Transylvania County while serving on the Social Services Board. Mr. Israel has served the citizens of Transylvania County in many different capacities. He was the first County Manager of Transylvania County in 1977 and more recently served since 2005 as a member of the Transylvania County Social Services Board and as chair in 2010 and 2011. Commissioners thanked Mr. Israel for his service to the citizens of Transylvania County and wished him the best in his future endeavors.

Commissioner Chappell moved to approve Resolution 25-11 In Recognition of Edgar P. "Ed" Israel. The motion was seconded by Commissioner Phillips. Commissioner Chapman thanked Mr. Israel for his leadership on the Social Services Board and for helping him to understand the needs within that department. Chairman Hawkins said sometimes resolutions can not begin to convey everything that a person has done. He placed emphasis on the fact that people are aware of Mr. Israel's contributions and they are very appreciative. **The motion was unanimously approved.**

(Resolution 25-11 In Recognition of Edgar P. "Ed" Israel is hereby incorporated by reference and made a part of these minutes.)

APPOINTMENTS

JUVENILE CRIME PREVENTION COUNCIL

Communities In Schools holds a position on the Juvenile Crime Prevention Council and the position is vacant due to the fact that the agency has gone dormant for the time being. It was suggested that the school system appoint a member in place of Communities In Schools. Superintendent Dr. Jeff McDaris recommended Dr. Scott Elliott, Director of Secondary Education with Transylvania County Schools.

Commissioner Chapman nominated and moved to appoint Dr. Scott Elliott to fill the position in place of Communities In Schools, seconded by Commissioner Phillips and unanimously approved.

OLD BUSINESS

CONVEYANCE OF LAND TO THE BREVARD RESCUE SQUAD

At the previous meeting the Board discussed the conveyance of land to Brevard Rescue Squad and agreed it was its intention to convey the land to Brevard Rescue Squad with the understanding that the County would be granted first right of refusal if the property were ever to be sold. Per the direction of Commissioners and NCGS 160A-277 staff properly advertised the Board's intent.

Last week the Manager met with County Attorney Curtis Potter, Brevard Rescue Squad Chief Vince Stone and Billy Higgins of First Citizens Bank to review the agreement conditions. Mr. Potter explained that in conversations with the Bank it became clear that the Bank would be unwilling to loan Brevard Rescue Squad any funds unless the right of reverter clause is removed from the conditions the Board imposed. The right of reverter clause states that the property automatically goes back to the County if Brevard Rescue Squad ever defaults or dissolves. Mr. Potter offered three options to satisfy the Bank's concerns as follows:

1. Remove the right of reverter and proceed as planned to convey the property for no monetary consideration
2. Remove the right of reverter and impose a limited option to repurchase the property in the event of default or dissolution
3. Remove the right of reverter and require that Brevard Rescue Squad pay the assessed value of the land or some other agreed to amount as the purchase price of the land

Chairman Hawkins inquired further about option 2 and asked how the County would determine the fair market value of the property if foreclosure or dissolution occurs. Mr. Potter said the fair market value is generally determined through an appraisal. Furthermore, under this scenario, if there were any outstanding debt on the property, the Bank would put a lien on the property. The County would know at the time of exercising the option how much it would cost to satisfy any debts.

In response to a question from Commissioner Hogsed, Mr. Potter said the sale of the land is not the issue to the Bank. Those conditions remain in place. The Bank's concern is the dissolution. Furthermore, the right of first refusal would remain in place if Brevard Rescue Squad sold the property or if Brevard Rescue Squad dissolved.

Commissioner Hogsed suggested moving forward with the Manager's recommendations as follows but removing recommendation number 3 and including the right of first refusal in case of dissolution with recommendation number 5:

1. The existing lease is null and void upon the transfer of property.
2. Brevard Rescue Squad shall grant an easement to PharmAgra to gain access to its property.
3. In case of a deadlock or dissolution of Brevard Rescue Squad, or in the event that Brevard Rescue Squad no longer offers rescue services to the County, the property will revert back to the County.
4. The Rescue Squad will pay for all legal and recording fees involved with the transaction.
5. If the Rescue Squad decides to sell the buildings and property, the Rescue Squad agrees:
 - a. To give the County the right of first refusal to purchase the buildings and property
 - b. To pay the County the fair market value of the property at the time of the sale of the land and buildings.

Chairman Hawkins requested confirmation on the Manager's recommendations. Mr. Potter noted that generally a right of first refusal only arises when someone has first made an offer.

Chairman Hawkins said there could be a scenario where the County was given right of first refusal to purchase the building but the County declined. The property would then be sold and the County would be

paid fair market value of the property. The Manager clarified that if the County conveys the property at no cost it would not have to buy the land back, only the buildings on the land.

Commissioner Hogsed commented that recommendation number 5 would apply to Brevard Rescue Squad should it decide to sell the property. He inquired as to whether or not the same stipulation would apply with the Bank if it becomes the seller. Mr. Potter replied no. If the Bank is the seller of the property then the scenario would be that the Bank has already foreclosed on the property. In that scenario the County would already have decided whether or not to exercise its options. Mr. Potter noted that part of what will be recorded is a requirement to notify the County of any foreclosure proceedings.

Commissioner Hogsed made a motion to move forward with the Manager's recommendation and deleting recommendation number 3. The motion was seconded by Commissioner Chappell. For clarification purposes, Mr. Potter noted that recommendation number 5 will also include the right of first refusal if Brevard Rescue Squad were to dissolve. **The motion passed unanimously.**

Staff will work with Mr. Potter to prepare the necessary documents and will present a resolution at the next meeting for the Board's approval.

NEW BUSINESS

REQUEST TO FILL VACANT POSITIONS

The Board of Commissioners approved a temporary hiring freeze in January 2011 and voted on June 27, 2011 to continue the hiring freeze indefinitely. The Manager asked the Board to consider filling the following positions:

1. Social Services: Education Development Aide at the New Adventure Learning Center; vacant due to resignation
2. Social Services: This department is currently advertising for two positions that are expected to be filled internally; requested permission to fill the positions that may become vacant as a result of filling the other two positions
3. Health Department: Public Health Educator II position; vacant due to death of employee
4. Sheriff's Office: Detention Corporal, Detention Officer, and Cook; the Cook's position will only become vacant if the current Cook is promoted to one of the other positions

Staff included justification for each position in the Commissioners' agenda packets.

After clarification on some of the positions, **Commissioner Hogsed moved to approve the positions as recommended by the Manager, seconded by Commissioner Phillips and unanimously approved.**

FALSE ALARM ORDINANCE

Over the past few years there has been an increase in the number of false alarm calls because of malfunctioning security systems. These false alarms unduly subject manpower, equipment, and resources to potentially being in harms way and increased consumption. As a result, the Board of Commissioners instructed staff to draft a False Alarm Ordinance. Emergency Services staff, with the help of the Chief's Association, drafted a proposal for the Board's review. The Manager asked the Board to schedule a Public Hearing for the next meeting to gather input from the public on the proposal. The draft ordinance will be posted on the website and made available for public review prior to the Public Hearing.

Communications Director Kevin Shook gave an overview of the proposal for Commissioners and members of the audience in attendance. Mr. Shook noted that one of the major issues in dealing with false alarms is that there is no contact information or key holder on file with Transylvania County Emergency Services and many times the contact person or key holder is not local. Mr. Shook said one

way or another when emergency staff are called to a home or residence, they will enter the building. Having local contact information on file will make this easier on everyone involved. Another issue is dealing with calls pertaining to malfunctioning security systems that are not maintained by the owner. On all emergency calls, those responding must do so with all their equipment which is a drain on resources.

Mr. Shook said the purpose of the ordinance is not to penalize anyone, but rather ensure that homeowners and business owners with security systems are responsible for their systems and that they have key holder/contact information on file with Transylvania County 911. Homeowners and business owners will be penalized beginning with the third false alarm call.

Commissioners thanked staff for their work on this ordinance. They believe it addresses the Board's concerns. However, Commissioner Chappell expressed concern about the annual permit fee for security system owners. The Manager informed him that the permit fee can be lowered if the Board so chooses. The permit fee covers annual administrative costs.

After further discussion, **Commissioner Chapman made a motion to schedule a Public Hearing for the July 25, 2011 meeting and instructed staff to give proper notice. The motion was seconded by Commissioner Phillips.** Commissioner Hogsed requested that staff make contact with representatives from local Fire Departments and Rescue Squads and determine their position on this ordinance and make the Board aware of any concerns they may have. Commissioner Phillips also requested staff to provide a cost analysis of emergency calls. **The motion passed unanimously.**

TRANSFER SURPLUS VEHICLE TO ROSMAN VOLUNTEER FIRE RESCUE

The Emergency Services Department is replacing a four-wheel drive vehicle in its department. The used vehicle will be considered surplus. Rosman Fire Rescue has requested that the County convey the surplus vehicle to them at no cost. Per NCGS 160A-277 the Board of Commissioners can convey the vehicle after giving a 10-day notice in the local newspaper indicating its intent to convey the vehicle. The vehicle is a 2001 Suburban with an estimated salvage value of \$3,000.

In response to a question by Commissioner Chapman, local Fire Departments will inquire about potential surplus vehicles during the budget cycle. Any department that is interested must make a request in writing to the County for the Board's consideration.

Commissioner Chappell moved to proceed with the 10-day notice required to express the Board of Commissioners' intent to convey the vehicle as required by NCGS 160A-277, seconded by Commissioner Hogsed and unanimously approved.

BUDGET AMENDMENT

The Board of Commissioners approved a budget amendment in FY 2011 to replace the roof on the old Sheriff's Building. The work should begin in mid-July and the monies need to be carried forward into FY 2012. This budget amendment increases the FY 2012 Budget by \$56,600.

Commissioner Phillips moved to approve the Budget Amendment, seconded by Commissioner Chappell and unanimously approved.

MANAGER'S REPORT

The Manager reported the following:

1. The County Attorney reviewed the sealed closed session minutes and determined there are none ready to be unsealed at this time.
2. Staff is working to understand an issue in reference to non-emergency medical transportation changes coming from the State and how those changes might affect Transylvania County. Staff

hopes the changes will be delayed until July 1, 2012, rather than being implemented on January 1, 2012. Land-of-Sky Regional Council has passed a resolution to that effect.

3. Staff is also trying to understand changes with the More At Four program.
4. There is a public meeting tomorrow evening at 5:30 p.m. in reference to the replacement of the Rocky Creek Bridge. The meeting will be held at the Sapphire Whitewater Community Center. The NC Department of Transportation will hopefully explain how it plans to keep Highway 64 West open while it constructs the new bridge.
5. Work continues on the 150th Anniversary celebration. The birthday party event is scheduled for September 3. The Manager encouraged everyone to attend the community events as they have been outstanding thus far.
6. Staff is busy trying to understand new legislation and how the redistricting will affect Transylvania County.

PUBLIC COMMENT

Anne Theresa Emma: Ms. Emma asked for an update on the status of the new animal shelter. The Manager responded. He informed Ms. Emma that the Board of Commissioners has set a deadline for the end of September for staff to bring back a number of scenarios and alternatives for a new animal shelter. Staff is also currently reviewing other animal shelter plans. One scenario is determining what kind of shelter can be built with the current funds on hand. Staff has also met with Dr. Clyde Brooks and others in regards to fundraising efforts. There could also be an opportunity to work more with a group of citizens interested in building a private facility; however the Manager has yet to receive a formal proposal. The Manager assured her that the process continues to move along.

COMMISSIONERS' COMMENTS

Commissioner Chapman recognized Town of Rosman Alderman Roger Petit who was in attendance. He encouraged Commissioners to attend the Town's Board meetings.

Commissioner Phillips inquired about the status of negotiations with the City on the septage pretreatment facility. The Manager said he continues to work with the City Manager to finalize the agreement with the contractor as well as the agreement between the City and the County with regards to setting up an enterprise fund and the reporting requirements.

Commissioner Chappell thanked everyone for their kind words, thoughts and prayers with the recent death of his mother. On behalf of the entire Board, Chairman Hawkins expressed his condolences to Commissioner Chappell and his family for their loss.

ADJOURNMENT

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

ATTEST:

Mike Hawkins, Chair
Transylvania County Board of Commissioners

Trisha M. Hogan
Clerk to the Board

07/11/2011