

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**May 13, 2013 – REGULAR MEETING**

The Board of Commissioners of Transylvania County met in regular session on Monday, May 13, 2013 at 7:00 p.m. in the large courtroom of the Transylvania County Courthouse.

Commissioners present were Vice-Chairman Larry Chapman, Jason Chappell, Chairman Mike Hawkins, Daryle Hogsed and Page Lemel. Also present were County Manager Artie Wilson, County Attorney Tony Dalton, and Clerk to the Board Trisha Hogan.

Media: *The Transylvania Times* – Eric Crews

There were approximately 50 people in the audience.

**CALL TO ORDER**

Chairman Mike Hawkins presiding called the meeting to order at 7:05 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**

Lee McMinn: Mr. McMinn stated that Transylvania County has a fund balance which greatly exceeds the minimum requirements by the State. He recalled attending a County Commission meeting last year when \$400,000 was transferred into reserves for renovations. Mr. McMinn also commented that some discussion has occurred regarding the upcoming budget and the need to pay for an increase in expenditures by using fund balance or raising taxes. He noted that Transylvania County has one of the lowest tax rates in the State. He does not believe that fund balance should be used for recurring operating expenses; rather, fund balances are designed for one-time expenditures like renovations. Mr. McMinn said there are many buildings in the County that need renovating either for repair purposes or to provide additional space for County offices. He encouraged Commissioners to use fund balance to pay for these projects and help put citizens back to work even if temporarily. He also urged Commissioners to move forward with the renovation of the old Library and Administration in 2013.

Kevin Glenn: Mr. Glenn is a Transylvania County citizen. As a representative for the group People for Clean Mountains (PCM) he spoke about the proposed biomass facility in the Penrose community. He encouraged Commissioners to take the necessary steps to move forward with enacting an 18-month moratorium. He said a month has passed since Renewable Developers held a public meeting and promised answers to questions posed by citizens and local officials. PCM believes this project is a net loss to Western North Carolina in that the jobs created would be low wage jobs, it is unknown if the business is taxable, minor to no production of electricity, probable environmental degradation, tax incentives for the developers, and damage to the beauty of the County. Mr. Glenn said Transylvania County should not be a real world experiment for unproven technology. PCM also believes closed session meetings go against a democratic government and requested Commissioners review and release the minutes of the last five closed session meetings as soon as possible because they feel they have a right to be part of the discussion.

Susan Evans: Ms. Evans is a consultant working with the City of Brevard on its comprehensive plan. She provided her contact information and the website information where Commissioners can review the City's draft comprehensive plan. She provided the information in writing to the Clerk to pass along to Commissioners. Ms. Evans reported there have been 12 different meetings over a course of 6 days where input was gathered from the public. The meetings were not restricted to only City residents. Many County residents participated as well.

### AGENDA MODIFICATIONS

There were no agenda modifications.

**Commissioner Chappell moved to approve the agenda as presented, seconded by Commissioner Lemel and unanimously approved.**

### CONSENT AGENDA

**Commissioner Lemel moved to approve the Consent Agenda, seconded by Commissioner Chapman and unanimously approved.**

The following items were approved:

#### MINUTES

The minutes of the April 22, 2013 regular meeting were approved.

#### PROCLAMATION EMS WEEK

In 1974 President Gerald Ford signed into law the Emergency Medical Services Systems Act of 1973. The third full week of May ever since has been designated as EMS Week. The purpose of EMS Week is to honor the dedication of the EMS personnel who provide day-to-day lifesaving services of medicine's front line. Commissioners are very proud of the paid and volunteer EMS staffs that provide critical lifesaving services to the citizens of Transylvania County. Commissioners approved Proclamation 16-2013 EMS Week, designating the week of May 19-25, 2013 as Emergency Medical Services Week. Chairman Hawkins read aloud the Proclamation for the benefit of the public.

(Proclamation 16-2013 EMS Week is hereby incorporated by reference and made a part of these minutes.)

### APPOINTMENTS

#### TRANSPORTATION COMMITTEE

The terms of Norah Davis, Dana Hawkins, and Raymond Norris expire at the end of May. Ms. Davis and Mr. Norris are eligible to serve another term. All three expressed a willingness to continue serving. There is one additional application on file. It is also the responsibility of Commissioners to appoint the chairman annually. Mr. Hawkins is the current chair.

**Commissioner Lemel moved to reappoint Norah Davis, Dana Hawkins and Raymond Norris to another term on the Transportation Committee, seconded by Commissioner Chapman and unanimously approved.**

**Commissioner Lemel moved to reappoint Dana Hawkins as chairman of the Transportation Committee. The motion was seconded by Commissioner Chappell.** Commissioner Chapman commented that Mr. Hawkins has been very influential on this committee for a number of years and serves the community well in this position. **The motion was unanimously approved.**

COMMUNITY APPEARANCE INITIATIVE

There is one vacancy on the Community Appearance Initiative due to a member's term expiring and not being eligible to serve another term. The Clerk advertised in March and received an application. The committee does not meet again until late May.

**Commissioner Hogsed moved to appoint Lori Burrell Vaughn to fill the vacancy on the Community Appearance Initiative, seconded by Commissioner Chapman and unanimously approved.**

**NEW BUSINESS**JUVENILE CRIME PREVENTION COUNCIL COUNTY PLAN

Each year Transylvania County receives Department of Juvenile Justice and Delinquency Prevention Funds which are recommended to be allocated to various agencies by the local Juvenile Crime Prevention Council (JCPC). This year the JCPC recommends allocation of funds as follows and the allocation is similar to the current year:

Youth Mediation Services	\$ 26,300
Temporary Shelter	\$ 4,250
Project Rebound	\$ 47,450
Project Challenge	\$ 21,934
<u>Administrative</u>	<u>\$ 2,600</u>
Total	\$102,534

No County funds are required and all matches are made by the receiving agency by either cash match or in-kind match.

Finance Director Gay Poor serves as the Treasurer and was available to answer questions.

**Commissioner Lemel moved to approve the Juvenile Crime Prevention Council County Plan for 2013-2014 and authorize the Chairman to sign the necessary paperwork. The motion was seconded by Commissioner Chappell.** Commissioner Chappell thanked the members of the JCPC for the work they do for the youth in this community. The work they do saves taxpayer dollars in the long term. Commissioner Chapman serves as a member of the JCPC representing the Board of Commissioners. He clarified that the request for funds is the same as in past years. He commented that the committee's membership is made up of a wide cross section of the community and the money they spend to assist youth in the community is well spent. Commissioner Lemel asked how many youths are served in this program. She said even though these programs serve a small population of the County, the needs are very high. She is interested in understanding more about their work and the possibilities for the community to participate at different levels and provide more assistance. Commissioner Lemel also noted that the local match far exceeds 30% and in fact it is over 100%. The supporting agencies are providing \$156,000 in funding, either through cash match or in-kind, to assist with these programs when roughly only \$32,000 is required. Ms. Poor will relay her message to the JCPC members and provide the figures on the number of youths served by these programs. **The motion passed unanimously.**

WESTERN HIGHLANDS NETWORK FISCAL MONITORING REPORT

Per NCGS 122C-117(c), the quarterly Fiscal Monitoring Reports for the local management entities must be presented to the Board of Commissioners in person and read into the minutes of the meeting at which it is presented. The Manager presented the report from Western Highlands Network for the third quarter of FY 2013, which ended March 31, 2013. Total revenue year-to-date through the end of March is \$103.9 million and expenditures are \$127.4 million, leaving a surplus of \$6.5 million. Western Highlands has made a significant turnaround in their financial situation.

Western Highlands is in the process of transitioning into a partnership with Smokey Mountain. The Manager hopes this will occur by the end of September.

**Commissioner Lemel moved to accept the third quarter report from Western Highlands Network. The motion was seconded by Commissioner Chappell.** Commissioner Lemel inquired if a merger with Smokey Mountain by the end of September meets the requirements set forth by the State. The Manager said the WHN Board has asked for an extension but the deadline is currently by the end of July. The WHN Board has not heard back from the State yet on whether the extension has been accepted. The Manager noted that Commissioners will continue to get reports from Western Highlands through the end of next year because it will take a year to transition to the full partnership and become a new entity. **The motion was unanimously approved.**

#### BUDGET AMENDMENTS

Finance Director Gay Poor submitted the following budget amendments for consideration by Commissioners:

#91. To appropriate \$316 of funds donated to EMS and held in restricted fund balance to be used as requested by the donors for employee appreciation and recognition

#92. To record \$16,625 received by Soil and Water from a TVA Ag & Forestry Fund grant for pasture land improvement and to appropriate \$1,243 from fund balance assigned for Soil and Water, \$875 of which will be reimbursed by the grant upon completion of the project

#93. To budget for a \$7,061 HAVA grant to reimburse Elections for coding costs incurred for the 2012 Second Primary Election and 2012 General Election; these funds must supplement, not supplant

#95. To record \$91,113 in unbudgeted jail fees collected from other counties and through the State Misdemeanant Confinement Program and to appropriate the additional revenues to related expenditures and needs in the Detention Center

If approved, these budget amendments will increase the FY 2013 General Fund budget by \$116,358, to a total of \$41,106,881.

**Commissioner Lemel moved to approve the budget amendments as presented. The motion was seconded by Commissioner Chapman.** Commissioner Chapman asked if staff expects there to be continued revenue through the Misdemeanant Confinement Program and housing inmates from other counties. Ms. Poor reported there are funds included in the budget for next year; however staff does not anticipate any growth at this time. These funds are unpredictable so staff takes the conservative approach when budgeting for these funds. The Manager commented that while the County does experience overall revenues through this program, it does cost to house and feed inmates. Ms. Poor noted that included in the Commissioners' agenda packets is a summary of the budget changes through the end of the third quarter. The total changes amount to \$747,145 through the end of third quarter. **The motion was unanimously approved.**

#### MANAGER'S REPORT

The Manager reported the following:

1. Renovation of Phase 2 of the Courthouse is complete. The Public Defender, Juvenile Services, and Probation Parole Intake moved last Wednesday. The last phase in the District Attorney's area will begin shortly.

2. Mental Health continues to consume a lot of time. Two special WHN Board meetings were held regarding the transition of merging Smokey and Western Highlands. A transition plan has been submitted to the State but as of today the proposal has yet to be approved. The Manager and Health Director Steve Smith are working on the allocation of MOE funds. The County is obligated to pay \$99,261 in MOE funds each month.
3. Chairman Hawkins and the Manager met with representatives of the Community Land Trust, City officials, and Superintendent Jeff McDaris to discuss an opportunity to proceed with an application for a loan to construct affordable homes for teachers and government workers. The Community Land Trust group lacks \$194,000 to fund utilities. They hope to receive assistance from both the County and City of Brevard.
4. Budget work continues. Staff is in the process of preparing for the budget presentation on May 28 with budget workshops to follow the next three evenings.
5. Last week the Manager found out that the NC Department of Environment and Natural Resources (NCDENR) now requires governmental agencies operating landfills to calculate and acknowledge the "Potential Assessment and Corrective Action" for any active landfill. This has to be determined when new permits are issued. The County is in the process of renewing its permit. The engineering firm calculated the amount to be \$1 million but the minimum allowed by the State is \$2 million. Staff is working with the auditors to see if this is something that needs to be set up over time or if the fund balance will be adequate to cover the amount. The County has been setting aside funds as required for the post-closure of the landfill so these monies are in addition to that. The life expectancy of the current landfill is at least another 17-18 years. No waste has been put into the new cell that was constructed a few years ago.
6. A question has been raised about why the Manager recommended that any officer serving on the Chamber of Commerce, Transylvania Partnership, EDAB or Heart of Brevard would have to resign their position in that organization to be eligible to serve on the 7 member Economic Development Committee. There are three specific reasons for the recommendation:
  - a. To avoid a potential conflict of interest.
  - b. Symbolically recognizes the importance of this project- above that of the other organizations
  - c. The time commitment required
7. The Animal Shelter is almost complete. Staff will begin planning for an open house in June and a grand opening shortly thereafter. The project is expected to come in at budget.
8. Update on the Bio-mass Facility - Commissioners Hawkins and Chapman and the Manager had a phone conversation with Renewable Developers Shareholder Matt Ross regarding the questions raised by the County and others. Mr. Ross said Renewable Developers is in the process of providing answers to those questions. The information he did provide he allowed for the County to pass along to *The Transylvania Times* and post on the County's website. At the request of the County Commissioners, staff reviewed the procedure for enacting a moratorium, reviewed the solid waste rules as to municipal solid waste being brought in from other states and counties, and reviewed the issue of a referendum. Staff learned the following:
  - a. Moratorium- Can be enacted only if the Board of Commissioners first approves an ordinance similar to that which requires approval from the County; then a moratorium can be approved.
  - b. Solid waste- Cannot prevent a feedstock such as municipal solid waste from being brought in from another State or county; however the County does have an ordinance in place that does prevent this waste from being taken to the landfill.
  - c. NC General Statutes allows counties to have a referendum only for certain things. A referendum on a bio-mass facility is not one of them.

The Manager had also asked County Extension Director Eric Caldwell to look at the project from an academia standpoint and he furnished the Manager with some detailed information that

he provided to Commissioners. The bottom line in the report is there is no commercial operation like this in the United States that uses the pyrolysis technology and municipal solid waste as a feedstock. While many are optimistic about this technology, the Manager and others are very hesitant about it being a pilot project in Transylvania County.

The Manager and Commissioners Chapman and Hawkins plan to attend County Assembly Day in Raleigh next week. While there, they intend to meet with officials from the NC Department of Environmental and Natural Resources and the NC Utilities Commission and learn more about the permitting process.

9. Vandalism occurred in the Community Services Building over the weekend. Someone entered the building and discharged two fire extinguishers, possibly destroying two copy machines. The mess was cleaned up over the weekend. It is undetermined how the person entered the building and there are no security cameras.
10. Reminded Commissioners that next month Commissioners need to appoint a replacement for Teresa McCall on the Blue Ridge Community College Board of Trustees.
11. Reminded Commissioners of the joint meeting with the Board of Education in the Rogow Room at the Library at 7:00 p.m.

Commissioner Lemel asked the Manager to elaborate about the meetings he has scheduled with State officials in Raleigh next week. The Manager said there have been conversations with officials in the Division of Solid Waste, Division of Air Quality and Utilities Commission about the permitting process. The goal of the meeting is to get these individuals together in the same room and ask these questions and get consistent answers, and also to learn how the County might influence the permitting process. He hopes this will result in having more information to share with the Board and public.

Commissioner Chappell verified that staff continues to review all sealed closed session minutes on a monthly basis and if any of those minutes can be released they are done so promptly. The Manager confirmed. He informed the public there are several projects going on that require Commissioners to discuss in closed session in order to maintain confidentiality. Tonight's closed session on the agenda does not involve the biomass facility.

Chairman Hawkins asked the Manager to clarify his statement on him being hesitant about the biomass project being a pilot project in Transylvania County. The Manager expressed concern that there are no facts available to support the project. It sounds like this could be cutting edge technology but it has yet to be proven in the commercial sense. Cleveland, Ohio has been looking at a project of this nature for two years and they have yet to make a decision. The County has only five months' worth of study in this project since the scope changed in January of this year. Therefore, he is hesitant and wants to make sure there is an understanding of the project as a whole before recommending to Commissioners that they should support the project. As of this date, the Manager is not ready to take specific action as to a recommendation to the Board. He hopes he will learn more at the meeting with State officials next week.

### **PUBLIC COMMENT**

Edwin Jones: Mr. Jones said he spent his career in the development of internal combustion engines and as a professional engineer. He expressed concern about the biomass project because no hard facts have been presented to support the comments that have been made by so many. Mr. Jones thinks the County Commission needs to locate a project of this nature operating elsewhere and gather hard data to share with the public.

Jeannie Falknor: Ms. Falknor thanked the Manager and Commissioners for their efforts to gather information about the biomass plant. As a former business owner, she said there were times when she

had to cease doing business with a client even if it may have hurt her business. The reasons for doing so were the client could have been treating an employee counter to the values of the business or maybe there was a lack of respect and open and honest communication. Ms. Falknor believes Renewable Developers has been disrespectful and unresponsive to the County and its constituents so she encouraged the County to end its relationship with them. She asked Commissioners if they had to decide right now on this project what their decision would be.

Unknown Gentleman: (Speaker did not identify himself) A gentleman informed Commissioners there is lots of information available about biomass facilities. He asked Commissioners to check out the website by People for Clean Mountains. He also asked Commissioners, as part of their continued analysis, to pay particular attention to the physicians groups as to the environmental impact of a project of this nature. The speaker also asked Commissioners to weigh the pros and cons before making a decision. He believes the County needs quality jobs with livable wages, but he does not believe the biomass facility will bring the necessary level of employment, saying these jobs are often filled by developmentally disabled people. He trusted that the Board of Commissioners wants what is best for the community. He asked them to consider a moratorium on this facility or at least ask the State not to approve any permits while the County is in its due diligence stage. Lastly, he expressed concern about the amount of traffic this facility would create on two-lane mountain roads.

Lee McMinn: Mr. McMinn commented that when Commissioners are able to obtain the information necessary to support the biomass facility, they should devise a contract with the developers which has enough protection in it to nullify it should something go wrong. Responding to the previous speaker, he believes there is a need for jobs for low-skilled or disabled individuals. Mr. McMinn is excited about the prospect of the technology involved with the biomass facility; however it should be clean and the County should be adequately protected if the developers do not live up to expectations. He thanked Commissioners for their work.

Ann Alexander: Ms. Alexander is a County resident and she is affiliated with Imagine Brevard. She asked if the names of those who apply for the independent Economic Development Task Force will be made public. She hopes the process will be transparent. The Manager informed her that the appointments will be made in a public meeting by the Board of Commissioners.

### **COMMISSIONERS' COMMENTS**

Commissioner Chappell thanked all the emergency personnel that battled the recent wildfires in the upper end of the County. They sacrifice time away from their family for everyone else's safety. He commended the departments for how well they work together, and he encouraged everyone to thank those personnel for the work they do.

Commissioner Chapman thanked the public for their input on the biomass facility. He assured the public that Commissioners are treating this very seriously and doing their due diligence. Two Commissioners and the Manager are going to Raleigh next week to meet with State officials about the permitting process. Commissioner Chapman believes the Board owes due diligence to the current property owner and the developer because it sets a precedent that the Board is going to give any industry wanting to locate here a fair chance. Based on what he knows right now, he would not support this project; however he is not sure how much weight his vote carries being that the project involves a private landowner and private developer and there is no zoning in the County. If Commissioners are allowed to continue gathering facts, they can then take a position that may have an influence on the process. The developer is aware of the Board's position that without answers they will not receive the Board's support. At this time there are too many unanswered questions and Commissioners are working hard to get those answers.

Commissioner Lemel represented the Board of Commissioners at a Smart Start breakfast celebrating the first 2,000 days of a child's life. These days represent a child's life from birth to the entrance of kindergarten. She also served on the Smart Start Board meeting the next day as she is the County Commission's appointment to that Board. Commissioner Lemel also attended the Brevard College spring community social. Brevard College had their highest receipt of deposits prior to May 1 in their history. She spent some time with the business cultivation group of the Imagine Brevard program. Along with Commissioner Chapman, she attended the CarolinaWest economic development team elected officials reception, where they met the new Secretary of Commerce. The keynote speaker was Jeannette Goldsmith and she spoke on the keys to economic development. Commissioner Lemel had the opportunity to speak with representatives from AdvantageWest, the organization that brings economic partners to the County and region. She also spoke with representatives from Duke Energy about their potential role in acquiring electricity from a small biomass project and how that process might work. Tonight she represented the Board at the Soil and Water Conservation District annual awards banquet.

Commissioner Chapman asked everyone to keep the family of Roy Chapman in their prayers. He passed away last Friday and he encouraged donations to a charity in his honor. He said Mr. Chapman is a great loss to the community.

Commissioner Hogsed commented that the people of the County are fortunate to know a man like Roy Chapman. To Ms. Falknor's question, he agreed with Commissioner Chapman that with the little information Commissioners have, he would not be supportive of the project. He wants to give the developer a fair chance just like the County would give all other businesses wanting to locate to Transylvania County.

Chairman Hawkins stated that one of the things mentioned in the Goldsmith Report was creating a business friendly community. Two incidents recently occurred that involved two local businesses. In one situation, a business wanted to repurpose a building and experienced some issues with interpretations of the building codes. The Manager was able to schedule a meeting with those involved and cleared up the situation. He commended the Manager for his action. In another situation, a business had interaction with the State a few years ago that, if the State had ruled a certain way, could have put the business under. The Manager and Planning and Economic Development Director Mark Burrows have worked on this for a year or more and that issue has been resolved in a positive manner.

Last week Chairman Hawkins participated in the Freedom Walk, an event that commemorated the anniversary of the integration of the Transylvania County School System. He said it was a remarkable event and students from all over the County attended. They were able to hear from people who worked hard on that accomplishment which occurred 50 years ago. Chairman Hawkins said it was a privilege to participate and it will be a high point of his time as Commissioner.

Lastly, Chairman Hawkins noted that Commissioners received a notebook from the People for Clean Mountains group. He said it has been very helpful to him. He believes this is an opportunity to look at the community and to begin to understand what's important. Besides looking at this issue from a local standpoint, there are much broader issues to consider as well. He is confident the County will get through this process.

**Chairman Hawkins moved to enter into closed session per NCGS 143-318.11 (a) (3) to consult with an attorney and (a) (4) to discuss matters relating to the expansion of an industry, after a 5 minute recess, seconded by Commissioner Chapman and unanimously carried.**



### **CLOSED SESSION**

Pursuant to NCGS 143-318.11 (a) (3) to consult with an attorney and (a) (4) to discuss matters relating to the expansion of an industry, closed session was entered into at 8:30 p.m. Present were Chairman Hawkins, Commissioners Chapman, Chappell, Hogsed and Lemel, County Manager Artie Wilson, Planning and Economic Development Director Mark Burrows, County Attorney Tony Dalton, and Clerk to the Board Trisha Hogan.

Commissioners consulted with the County Attorney and received an update on a potential economic development project. They instructed staff on how to proceed.

**Chairman Hawkins moved to leave closed session, seconded by Commissioner Lemel and unanimously carried.**

### **OPEN SESSION**

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

### **ADJOURNMENT**

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

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Mike Hawkins, Chair  
Transylvania County Board of Commissioners

ATTEST:

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Trisha M. Hogan, Clerk to the Board