

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
January 13, 2020 – REGULAR MEETING

The Board of Commissioners of Transylvania County met in regular session on Monday, January 13, 2020 at 4:00 p.m. in Commissioners Chambers at the County Administration Building, located at 101 S. Broad Street, Brevard, NC.

Commissioners present were Will Cathey, Jason Chappell, David Guice, Chairman Mike Hawkins and Vice-Chairwoman Page Lemel. Also present were County Manager Jaime Laughter, County Attorney John Kubis and Clerk to the Board Trisha Hogan.

Media: *The Transylvania Times* – Derek McKissock

There were approximately 150 people in the audience.

CALL TO ORDER

Chairman Mike Hawkins presiding declared a quorum was present and called the meeting to order at 4:10 p.m.

WELCOME

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

PUBLIC COMMENT (15-minute time limit, 3 minutes per speaker)

The comments made by the public represent the individual speaker's opinion or point of view. No attempt was made to vet their statements for accuracy or modify them based on facts.

Mike Mihalas: Mr. Mihalas is the State Council Chair of North Carolina Trout Unlimited. He spoke representing North Carolina Trout Unlimited and the Pisgah Chapter of Trout Unlimited. He expressed opposition of the Dollar General commercial development at the corner of US-276 and Becky Mountain Road because of its proximity to Hogsed Creek. Hogsed Creek has an official designation as a trout stream by the North Carolina Department of Environmental Quality. Mr. Mihalas stated the amount of impermeable surface that the development is going to create will cause warming of the trout stream. Trout are a cold-water species. Once the water temperature increases to more than 65 degrees, they struggle to survive, and at 70 degrees the water temperature is lethal. He feared that warm water in the stream from run off could wipe out entire populations of trout. In addition, the proximity of the septic field to the stream is also of concern. A 25' buffer is required from the trout stream, but Mr. Mihalas pointed out the current development plans do not define the buffer correctly. The plans measure from the center point of the stream, while the statute mandates the buffer be measured from the high bank of the creek. Mr. Mihalas cited the economic importance of trout fishing in Western North Carolina based on a 2015 study. He stressed the location for this development is wrong and that it will harm the quality of trout water in Transylvania County. In addition, the development will be in an area that floods frequently and will create many hazards for organisms that have lived in the stream for millions of years.

The Manager reported that the room has exceeded the Fire Marshal's posted limit for capacity. Staff is working on a method to better manage the crowd and possibly relocate members of the public to an alternate location. She offered the Board the option of recessing while staff prepares the alternate

location. The alternate location would allow the public to view and hear the meeting using A/V equipment. At this point, the Manager was waiting on an actual head count. The Chairman decided to continue with public comment until a head count is received.

Gary Morgan: Mr. Morgan addressed the Board regarding the Dollar General store development. He pointed out that the foot of Rich Mountain and Becky Mountain Roads floods several times a year, and, as recently as today, floodwaters were found on both sides of US-276. As it relates to commercial construction, he stated there are several unique issues that impact flooding in this area. The site is the location of the confluence of the French Broad River and Hogsed Creek. Under US-276, there is a double-box culvert, and under Becky Mountain there is a triple-box culvert as a result of recent construction which allows for greater water capacity. The drainage area is approximately 2,300 acres that comes down Hogsed Creek and includes the water from Eagle Lake dam. Levy pipe construction of US-276 divided the original floodplain and floodwaters back up into the existing cornfields of the Mill Cove pasture area. The proposed construction is part of the original floodway. Mr. Morgan reported that when the bridge on Becky Mountain Road was replaced last summer, the road was not raised due to flooding, but instead the NC Department installed a triple-box culvert for the purpose of moving water directly underneath Becky Mountain Road much quicker and into the fields and eventually into the French Broad River. The consequence of building the commercial property on this proposed site will reduce the floodplain storage capacity and create new flood patterns that will directly impact Becky Mountain Road, possibly Rich Mountain Road, Mill Cove Road, Reeves Road, and potentially US-276. Last summer Becky Mountain Road was closed due to flooding and that requires a 9-mile detour which is critical especially for emergency services vehicles. Mr. Morgan strongly requested the Board of Commissioners encourage the County's Planning and Community Development Department to apply every applicable provision incorporated in the County's Flood Damage Prevention Ordinance to deny the construction of applications related to this site.

Elizabeth Thompson: Ms. Thompson spoke on behalf of those in attendance opposed to the Dollar General development. She reported that over 4,000 citizens have signed petitions in opposition to the proposed Dollar General Store project at Becky Mountain Road and US-276. In response to their concerns, she requested the Board of Commissioners vote to approve a moratorium on commercial development based on, but not limited to, the following: the County's Flood Damage Prevention Ordinance and any modeling for any project that alters floodplains depend on accurate and current data (due to the FEMA map data being used by the County is dated 2009); the County's planning and permit approval process needs to include cross-reference to an inventory of upriver dams, dykes and levees, along with downriver culverts and roadways with status and inspection records and expected lifespans for each which should be evaluated alongside any project in the County, especially any that propose any alteration to a floodplain; County should evaluate the potential for waterway obstructions and pollution due to increased trash, litter and debris as a consequence of retail commercial uses; septic system development in the floodplain needs to be reevaluated and scrutinized for the health of the community and water resources. There needs to be a more robust process for evaluating traffic impact and roadway conditions. Special consideration should be given for the time of year and the impact that semi-trucks will have on roadways. Ms. Thompson stated that as a guiding principle, the 2025 Comprehensive Plan does not promote unfettered commercial growth throughout rural areas; instead, it designates specific growth areas and commercial nodes. Citizens consider scenic, natural beauty and rural small-town identity to be the County's top assets. The Transylvania County Farmland Protection Plan was adopted in 2009 and should be updated to reflect the citizens' prioritization of these community resources. Ms. Thompson understood that growth is inevitable and noted that the community has been asked to step up and help with small area planning. She asked how citizens can conduct small area planning if these issues cannot be resolved. Lastly, on behalf of all those in attendance, she again requested the Board pass a moratorium and use land use planning and ordinances to better reflect the goals and priorities of the

community and close loopholes and eliminate gray area that will allow unchecked growth creating lasting detrimental effects on the community and the natural resources.

Michael Mucci: Mr. Mucci informed Commissioners the he is a full-time resident of the Cedar Mountain/Dunn's Rock area near the existing Dollar General Store on US-276. He attended the December 9 Board of Commissioners' meeting to voice his opposition to the new Dollar General Store project at the base of Becky Mountain Road, and he reminded Commissioners that the public was informed that the County had no control over where businesses are located throughout the County due to lack of zoning. While he understood the governing body may not have a say in the types of businesses constructed on developable land, he pointed there are limitations that should be considered, such as flood control. Mr. Mucci reported he was informed by the NC Department of Transportation that businesses may not fill and build on lands that are designated for water retention and overflow. He stated the land that lies between Wilson Road and the French Broad River may not be filled because of its impact on other adjacent properties. He asked what power Dollar General has over building on floodplains that the NC Department of Transportation does not have. He hoped the Board would answer this question for the residents in this area.

Chairman Hawkins informed the public that the meeting room was 51 people over capacity. Since there were only two others signed up to speak, he decided to continue with the public comment period. If the full audience decided to stay for the duration of the meeting, they would need to be relocated to another meeting space following the public comment period.

Jim Walker: Mr. Walker asked the Board to consider potential remedies to the Dollar General Store. 1.) Zoning – If not dealt with now, these issues will continue to arise; 2.) Extra-territorial Jurisdictional – Ask the City of Brevard if they would be willing to include this area in their planning jurisdiction or consider possible annexation; 3.) Consult with experts on this issue at the UNC School of Government; 4.) Discuss with State legislators – Introduce private bill that will affect only Transylvania County to exempt this land from being built upon; 5.) Lawsuit – File a lawsuit to restrain Dollar General from building on this site.

Sasha Jones: Ms. Jones asked the Board of Commissioners to pass a moratorium and consider land use planning tools and ordinances to better reflect the goals of the community. She pointed out such goals are documented in the County's Comprehensive Plan and the Farmland Protection Plan. She felt special consideration should be given to closing loopholes and eliminating gray areas so that developers cannot take advantage of rural communities and natural resources. It would also allow time for the community to work on its small area plan. Ms. Jones thanked Commissioners for all they do for the County, and she asked that they discuss the possibility of implementing a moratorium.

This concluded the public comment section. Chairman Hawkins asked the Manager to report on the regulations in place and what the County has control over in terms of this project. The Manager reported that floodplain is, in fact, a factor because the site lies within a floodplain regulation area. The regulation is technical, and licensure is awarded by the State of North Carolina with the liability attached to the licensure stamps. Typically, the engineer's stamp is the official word on whether floodplain is a factor in terms of the design of the actual site. Floodplain is identified through federal and State maps; they are not locally generated. There is, however, the ability for people to challenge the maps, which is a higher-level process than local government. In addition, scenic corridor regulations impact the projects regarding sign regulations. Building permitting and well and septic permitting are also technical regulations that are created by the State. There is also provision in State law that permits an engineer with the appropriate certification to submit a full package to an environmental health department that would allow for the septic permit to be issued without any technical review by the local government.

The Manager informed the public that North Carolina is a Dillon's Rule State in that the State heavily dictates what counties and local government can do. The floodplain, building permitting and well and septic permitting are regulated at the State level, and it would take advocacy in the State Legislature to impact change.

In addition, State law addresses moratoriums in local government. Moratoriums cannot exceed 60 days in North Carolina and cannot apply retroactively to projects, and (quote from County Attorney) "this is very fact specific and may not be warranted under the police powers without further examination and research." The Manager stated it is important for the public to understand that local government cannot delay projects, even if they are undesirable, due to discrimination laws that have been in place for many years. Otherwise, the local government would be liable, and the burden would be placed on all the citizens of the community. Those damages could be quite severe.

Many of the issues raised can be addressed in different ways under zoning regulations if desired by the community. Those must be in place, however, when a project begins in order to apply to a project. In North Carolina, those regulations apply to landscaping, minimum parking requirements, usage, building size, aesthetics, materials used, etc. to help prevent projects that a community may not desire. Ultimately, zoning must be proactive and not reactive. Projects under application must be grandfathered in prior to regulations being adopted. There are also notice requirements and additional time periods for adoption of zoning regulations. This concluded the Manager's comments. She called for questions from the Board.

Chairman Hawkins referenced Mr. Mihalas' comments and his concerns about impermeable surface and heated run off water having detrimental effects on the trout population. Taking his comments at face value, Chairman Hawkins stated these impacts are very concerning and he asked the Manager how to best resolve this problem. The Manager stated the Board may only consider the current regulations in place. If there is no designation of a trout stream, there is no ability to apply a regulation. The stream must be designated a trout stream and regulations tied to the designation that can be applied to the project. Trout streams are State designations, not local designations. Any State or federal regulations would be enforced by the appropriate State or federal agency.

Members of the audience began asking the Manager questions. For meeting decorum purpose, Chairman Hawkins allowed three additional questions from the audience. Any other questions of staff or the Board should be submitted electronically.

Ken Klink: The gentleman stated that a lot of information was presented this evening about what citizens couldn't do. He asked if there was anything the Board of Commissioners could do to guide the public for them to address this issue. He said there is a lot of emotion, but a lot of facts and laws on their side. He asked the Board to help citizens identify what they can do.

Commissioner Cathey suggested citizens investigate hiring a specialized attorney. There are specialized attorneys and firms that handle these issues.

Mike Mihalas: Mr. Mihalas confirmed that Hogsed Creek has been designated a trout stream by the NC Department of Environmental Quality. It is subject to a trout buffer regulation of 25' measured from the top of the bank. He stated the current project plans measure from the center line of the creek. Being the plans incorrectly define the trout buffer, he asked what the County can do to reconcile the issue, noting the plans cannot be approved as they currently are drawn.

The Manager stated the onus is on the agency responsible for enforcing the regulation. If the buffer must be enforced by NCDEQ, then they are responsible for ensuring it is appropriately measured.

April Ziegler: Ms. Ziegler reported she will be the manager of the new Dollar General Store. She asked the audience if the store were relocated elsewhere, maybe a mile further away, would citizens still be in opposition to it. (It appeared those in attendance expressed opposition.)

At this time, Chairman Hawkins directed staff to assist with relocating members of the audience to an alternate location if the meeting room remains over capacity.

AGENDA MODIFICATIONS

There were no agenda modifications from Commissioners or staff.

Commissioner Lemel moved to approve the agenda, seconded by Commissioner Chappell unanimously approved.

CONSENT AGENDA

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

The following items were approved:

MINUTES

The Board of Commissioners met in regular session on Tuesday, May 14, 2019 and in special session on Thursday, May 23, 2019 to receive the Manager's recommended budget for FY 20. The minutes were approved as submitted.

UNSEALING OF CLOSED SESSION MINUTES

Closed session minutes are generally sealed until such time that opening the minutes does not frustrate the purpose of the closed session. After review, staff proposes the Board of Commissioners unseal the following closed session minutes, thus making them available for public inspection:

NCGS 143-318.11 (a)(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

1. September 19, 2017
2. March 26, 2018

NCGS 143-318.11 (a) (5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

1. February 26, 2018
2. March 26, 2018 (partial)
3. April 23, 2018 (partial)
4. May 21, 2018
5. June 12, 2018
6. July 10, 2018 (partial)
7. September 11, 2018
8. September 24, 2018 (2)
9. October 22, 2018
10. February 25, 2019

Commissioners unsealed the closed session minutes as advised by staff.

RESOLUTION COMMEMORATING THE 100TH ANNIVERSARY OF THE PASSAGE OF THE NINETEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES AND THE FOUNDING OF THE LEAGUE OF WOMEN VOTERS

2020 marks the 100th Anniversary of the passage of the 19th Amendment to the US Constitution giving women the right to vote. The League of Women Voters of North Carolina has invited all 100 counties to be part of this important commemoration through the passage of a resolution. Through the passage of a resolution, the League of Women Voters hopes to raise awareness of the importance of voting, to increase the understanding that the vote did not come easily to many, to enhance civic education, and to remind all of us the privilege we enjoy from living in a representative democracy.

Commissioners approved Resolution #01-2020 Commemorating the 100th Anniversary of the Passage of the Nineteenth Amendment to the Constitution of the United States and the Founding of the League of Women Voters.

Resolution #01-2020

Commemorating the 100th Anniversary of the Passage of the Nineteenth Amendment to the Constitution of the United States and the Founding of the League of Women Voters

WHEREAS, an organized movement to enfranchise women began in July 1848 as a convention in Seneca Falls, NY; and

WHEREAS, through the efforts of brave and courageous women, referred to as suffragists, who sacrificed family, their personal life and their financial resources for over 70 years to gain equal rights for women, especially the right to vote; and

WHEREAS, women and men, black and white, supported the suffrage movement for women to gain the constitutional right of having a voice in making the laws that govern them; and

WHEREAS, the woman's suffrage movement led to the passage of the 19th Amendment to the Constitution of the United States in 1919, with its ratification by the states in the summer of 1920; and

WHEREAS, the National Woman's Suffrage Association dissolved in 1920 to create the League of Women Voters of the US to register voters and educate all voters; and

WHEREAS, the League of Women Voters of North Carolina was launched on October 7, 1920 on the steps of the Guilford County Courthouse by Gertrude Weil, a politically active and tireless young woman from Goldsboro, NC; and

WHEREAS, more than 120,000 women were registered to vote in North Carolina by 1920; and

WHEREAS, women today constitute a majority vote in our state and the US, are running for office in higher numbers, and are more active in the election process than ever before in history;

BE IT RESOLVED that the 100th Anniversary of women gaining the right to vote and the founding of the League of Women Voters in the United States and in North Carolina is recognized for the impact these historic accomplishments have on citizen engagement and the civic life of the community, the state and the nation.

*The Constitution of the United States of America, Amendment XIX
Women's Suffrage*

*The right of the citizens of the United States to vote shall not be denied or abridged by the United States
or by any State on account of sex.
Congress shall have the power to enforce this article by appropriate legislation.*

Adopted this the 13th day of January, 2020.

S: //Mike Hawkins, Chair
Transylvania County Board of Commissioners

PROCLAMATION IN SUPPORT OF NATIONAL RADON ACTION MONTH

Radon is the leading environmental cause of lung cancer in North Carolina. The NC Department of Health and Human Services has worked with county health departments and cooperative extension offices to raise awareness about radon-induced lung cancer. NC Radon Program Coordinator Phillip Gibson is requesting all 100 counties support the goals of the NC Department of Health and Human Services to educate the public, raise awareness about the dangers of radon, and help prevent lung cancer. Several counties have participated thus far and several of their proclamations have been included in the Board's agenda packet for information purposes.

Commissioners approved Proclamation #03-2020 In Support of National Radon Action Month and instructed the Clerk to forward a copy to NC Radon Program Coordinator Phillips Gibson, the County Health Department and Cooperative Extension Service.

**Proclamation 03-2020
In Support of National Radon Action Month**

WHEREAS, radon is a colorless, odorless, radioactive gas that may threaten the health of our citizens and their families; and

WHEREAS, radon is the second leading cause of lung cancer in the U.S. and is the leading cause of lung cancer in non-smokers; and

WHEREAS, the National Academy of Sciences estimates that up to 21,000 lung cancer deaths occur in the United States each year; and

WHEREAS, one out of every 15 homes in the United States is likely to have a high level of radon; and

WHEREAS, any home may have elevated levels of radon, even if neighboring homes do not, and living in a home with an average radon level of 4 picocuries per liter of air poses a similar risk of developing lung cancer as smoking half a pack of cigarettes a day; and

WHEREAS, testing for radon is simple and inexpensive and radon problems can be fixed;

WHEREAS, Transylvania County, the U.S. Surgeon General, the U.S. Environmental Protection Agency, the NC Department of Health and Human Services' NC Radon Program and the North Carolina Advisory Committee on Cancer Coordination and Control support efforts to encourage homeowners to test their homes for radon and have elevated levels of radon reduced; and

WHEREAS, many residents in Transylvania County don't know about radon, yet need to know, for the

safety and health of their families and a proclamation of National Radon Action Month is an opportunity to educate individuals on the available measures to reduce radon;

NOW, THEREFORE, the Transylvania County Board of Commissioners does hereby proclaim:

JANUARY 2020 as National Radon Action Month in Transylvania County, North Carolina.

This the 13th day of January, 2020.

S: //Mike Hawkins, Chair
Transylvania County Board of Commissioners

RESOLUTION-2020 CENSUS PARTNERSHIP

The goal of the US Census is to ensure everyone is counted only once and in the right place. The US Census is constitutionally mandated for reapportionment of Congress and the results are used for redistricting at national, state and local levels.

Every citizen counted in Transylvania County helps to bring back federal tax dollars in excess of \$1,600 per citizen for service support in the areas of education, healthcare, transportation, social services, emergency response, and housing assistance and rehabilitation loans, just to name a few.

Local government participation provides opportunities to work together with the US Census Bureau to ensure the best and most useful results possible.

Transylvania County has established a 2020 Census Complete Count Committee of staff that has been meeting regularly to plan how to use existing networks and partnerships to deploy messages about the Census process throughout the spring. This resolution establishes the partnership to ensure the goals of the 2020 Census are met.

By passage of the resolution, Transylvania County is committed to partnering with the US Census Bureau and the State of North Carolina and will:

1. Support the goals for the 2020 Census and disseminate 2020 Census information;
2. Encourage all County residents to participate in events and initiatives that will raise the overall awareness of the 2020 Census and increase participation;
3. Provide Complete Count Committee members and Census advocates to speak to County and Community Organizations;
4. Support census takers as they help our County complete an accurate county; and
5. Strive to achieve a complete and accurate county of all persons within our borders.

Commissioners approved Resolution 20-2020: 2020 Census Partnership.

**RESOLUTION #02-2020
2020 Census Partnership**

WHEREAS, the U.S. Census Bureau is required by the U.S. Constitution to conduct a complete count of the population and provides a historic opportunity to help shape the foundation of our society and play an active role in American democracy; and

WHEREAS, Transylvania County is committed to ensuring every resident is counted; and

WHEREAS, federal and state funding is allocated to communities, and decisions are made on matters of national and local importance based, in part, on census data and housing; and

WHEREAS, census data help determine how many seats each state will have in the U.S. House of Representatives and are necessary for an accurate and fair redistricting of state legislative seats, county and city councils and voting districts; and

WHEREAS, information from the 2020 Census and American Community Survey is vital for economic development and increased employment; and

WHEREAS, the information collected by the census is confidential and protected by law; and

WHEREAS, a united voice from business, government, community-based and faith-based organizations, educators, media and others will enable the 2020 Census message to reach more of our residents; and

WHEREAS, the Census count requires extensive work, and the Census Bureau requires partners at the state and local level to ensure a complete and accurate count; and

WHEREAS, Transylvania County and its appointed Complete Count Committee will bring together a cross section of community members who will utilize their local knowledge and expertise to reach out to all persons of our community;

Now, therefore, **BE IT RESOLVED** that Transylvania County is committed to partnering with the U.S. Census Bureau and the State of North Carolina and will:

1. Support the goals for the 2020 Census and will disseminate 2020 Census information;
2. Encourage all County residents to participate in events and initiatives that will raise the overall awareness of the 2020 Census and increase participation;
3. Provide CCC members and Census advocates to speak to County and Community Organizations;
4. Support census takers as they help our County complete an accurate count; and,
5. Strive to achieve a complete and accurate count of all persons within our borders.

Adopted this the 13th day of January, 2020.

Mike Hawkins, Chair
Transylvania County Board of Commissioners

PRESENTATIONS/RECOGNITIONS

RECOGNITION OF OUTGOING CITIZEN ADVISORY COUNCIL MEMBERS

In July 2015, the Board of Commissioners implemented a recognition program for the purpose of expressing their appreciation to citizens who volunteer their time and expertise on the County's many citizen advisory councils. The Board intends to recognize citizens on a semi-annual basis. This period will cover July 1, 2019-December 31, 2019.

Each person in attendance was presented with a certificate of appreciation and a coffee mug. The Clerk extended the invitation to either of the January meetings. The Clerk will mail certificates to those citizen volunteers who are unable to attend.

Those in attendance and receiving their certificate and gift were Madeline Dierauf (Juvenile Crime Prevention Council) and Steve Woodsmall (Planning Board).

COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR FY 2018-2019

Finance Director Jonathan Griffin reported that the Comprehensive Annual Financial Report for Transylvania County has been filed with the State Treasurer's Office. Kelly Gooderham with Martin Starnes & Associates presented an overview of the FY 2018 Financial Report. This is a summary of her presentation:

Transylvania County Annual Financial Report for Fiscal Year Ended June 30, 2018

Audit Highlights

- Approved by the Local Government Commission
- Unmodified opinion (clean audit opinion)
- Appreciative of being able to work with cooperative staff

General Fund Summary

- Revenues increased approximately \$6.4 million, or 13%, primarily due to the Transylvania Economic Alliance long term note receivable
- Expenditures increased \$2.1 million, or 4.5%, due to an increase in capital outlay and debt service

Total Fund Balance-General Fund

- Increase of \$7.1 million, or 27%, mostly due to an overall increase in revenues related to the Transylvania Economic Alliance long term note receivable

Fund Balance

- Available fund balance as defined by Local Government Commission (LGC) is calculated as Total Fund Balance less Non-spendable (not in cash form, not available) less Stabilization by State Statute (by State law, not available)
- This is the calculation utilized as the basis for comparing the County to other units and calculating fund balance percentages

Fund Balance Position-General Fund

- Total Fund Balance=\$33,777,881 less:
 - Non spendable – inventory and prepaid; total \$4,890,501
 - Restricted: Stabilization for State Statute \$3,877,120
- Total available fund balance=\$25,010,250; increase by \$2.2 million over the prior year

Five Classifications of Fund Balance

- Non spendable - not in cash form
- Restricted - external restrictions (laws, grantors)
- Committed - internal constraints at the highest (Board) level-do not expire, require Board action to undo
- Assigned - internal constraints, lower level than committed
- Unassigned - no external or internal constraints

Fund Balance Position-General Fund (calculation of unassigned Fund Balance)

- Total Fund Balance=\$33,777,881, less:
 - Non spendable – inventory and prepaid; total \$4,890,501
 - Restricted: Stabilization by State Statute \$3,877,130
 - Restricted, all other - \$722,248
 - Committed – \$4,847,861
 - Assigned – \$15,239,620

- Total unassigned fund balance=\$4,200,521

Unassigned Fund Balance as a Percent of Expenditures-General Fund

- Calculated dividing Unassigned Fund Balance by Total Expenditures plus Transfers Out (\$4,200,521/\$49,790,975)
- Unassigned Fund Balance as a percent of expenditures was 8.44% at year end
- Different from Local Government Commission calculation because this calculation excludes all restrictions, commitments and assignments

Fund Balance as a Percent of Expenditures and Transfers to Other Funds-General Fund

- LGC uses Available Fund Balance percentage calculation to compare units across the State
- LGC recommends an Available Fund Balance of 8%, which equates to roughly one month's expenditures
- For 2019, 50.2% equates to roughly 6.3 months of expenditures on-hand, compared to 44.3% or 5.5 months of expenditures in 2018
- Unassigned Fund Balance percentage of 8.44% equates to nearly 1.05 months' worth of expenditures, compared to 10.6% in 2018

Top Three Revenues: General Fund

- Top three comprise \$47.5 million, or 84%, of revenues
 - Ad Valorem Taxes 53%
 - Local Option Sales Tax 16%
 - Sales and Services 15%

Property Tax

- Increased from the prior year by \$214,000 million, slightly less than 1%
- Tax rate stayed the same as the prior year
- Tax collection rate decreased from 99.87% to 99.82%

Sales Tax

- Increased by \$865,000, or 10.3%, primarily due to an increase in the sale distribution for the local options sales tax

Sales and Services

- Increased by \$4.9 million due to the long term note receivable

Top Three Expenditures: General Fund

- Top three functions comprise \$37.8million, or 78%, of expenditures
 - Education 30%
 - Public Safety 29%
 - Human Services 19%

Education Expenditures (Excluding Related Debt Service)

- Increased by \$182,000, slightly over 1%

Public Safety Expenditures

- Increased by \$1.2 million, due to an increase in salaries and an increased use in contracted fire and rescue services

Human Services Expenditures

- Increased around \$312,000, or 3.5%, mainly due to an increase in salaries

This concluded Ms. Gooderham's presentation.

Chairman Hawkins called for questions and comments from Commissioners.

Commissioner Lemel asked Ms. Gooderham to elaborate further on accounting for loan receivables. She did not view the loan as being actual revenue. Ms. Gooderham agreed that the loan is not considered revenue, per se, but it needs to be presented in a way for GASB 34 modified accrual conversion. It is classified as non-spendable form. Commissioner Lemel stated her concern is that it makes the County's fund balance appear inflated and she did not want it to be misleading to the public, especially since the Board recently raised taxes to pay for the school bond projects. The Manager noted that via the contract, once funds are received to pay the loan, those dollars are designated for the use of economic development purposes.

Commissioner Chappell pointed out the most important figure is the undesignated percentage. The total fund balance is a significant amount, as it is with most counties, but the undesignated amount is the only amount in which Boards have more flexibility to spend. All other areas of the fund balance are designated to meet funding requirements, such as health insurance, vacation, retirement, etc.

Commissioner Guice thought it was equally important to mention that over many years Transylvania County's leadership has chosen to fund education and public safety at certain levels because they believed in investing in those efforts. Commissioner Chappell agreed wholeheartedly, and he was proud of the County Commissioners for agreeing to fully fund school resources officers. Transylvania County is ahead of other counties in this area.

Commissioner Lemel referenced Mr. Griffin's narrative that accompanied the audit and his explanation of the County's deficiencies. She asked him to talk about the changes he has made in accounting with regards to cash handling, software upgrades, redundancy, etc. Knowing this is noted in the compliance letters, she wanted to give Mr. Griffin an opportunity to address it publicly. Mr. Griffin reported the accounting software used by the County is not best suited to meeting business needs. The County has many financial activities and the current software requires too many steps to complete transactions, thus making the process lengthier. The County went live last with its new software package, MUNIS, and, so far, it has made accounting procedures more efficient.

Chairman Hawkins noted he could not recall unassigned fund balance ever being as low as 8.4% of expenditures which is near the limit that is recommended by the LGC. The Board should be cognizant of this fact moving forward. With that said, the Board has decided to designate funds for certain purposes and has done so wisely, in his opinion.

Chairman Hawkins also noted one of the main reasons for overage was an increase in sales tax revenues. He was not clear if the increase would be continuous due to Medicaid Hold Harmless. Mr. Griffin stated he would provide Commissioners with a document of comparisons from the last several years for the various sales tax articles and Medicaid distributions, but he did not have detailed information to share at this meeting.

Chairman Hawkins referred to the auditor's finding and asked if staff was confident the new software would alleviate the issues that were identified. Mr. Griffin stated these issues have already been addressed.

Chairman Hawkins thanked staff and the auditors for their work in preparing the audit.

APPOINTMENTS

TRANSYLVANIA COUNTY TOURISM DEVELOPMENT AUTHORITY

On November 12, 2019, the Board of Commissioners approved a request by the Transylvania County Tourism Development Authority to increase its membership by two. The two new members are classified as members-at-large with no restrictions on membership, other than terms. One of the members shall be appointed for an initial term of one year and one shall be appointed for three years, and thereafter their terms shall be for three years.

The Transylvania County Tourism Development Authority (TCTDA) held a special meeting on Thursday, January 9, 2020 to review the applications and to make a recommendation to the Board of Commissioners on the two new positions. There are several applications on file for consideration. The TCTDA recommended the appointment of Kevin Howell for a three-year term and Robin Pickel for a one-year term, with the alternate being Mark Tooley if one of them could not serve.

Commissioner Lemel nominated and moved to appoint Kevin Howell for a three-year term and Robin Pickel to serve a one-year term, with the understanding that if one of them could not serve that Mark Tooley would be an alternate, seconded by Chairman Hawkins. Commissioner Cathey asked why it was not determined whether the applicants could serve prior to this meeting. **Commissioner Lemel moved to amend her motion to remove the alternate. The amendment passed unanimously.**

Commissioner Chappell nominated and moved to nominate Tad Fogel for a one-year term and Libby Freeman for a three-year term, seconded by Commissioner Guice.

Commissioner Lemel withdrew her motion.

Following the TCTDA's recommendation, Commissioner Lemel nominated and moved to appoint Robin Pickel for a one-year term, seconded by Chairman Hawkins. The motion to appoint Robin Pickel failed by a vote of 2 to 3, with Commissioners Cathey, Chappell and Guice voting against.

The motion to appoint Tad Fogel passed 3 to 2, with Chairman Hawkins and Commissioner Lemel voting against.

Commissioner Lemel nominated and moved to appoint Kevin Howell for a three-year term following the recommendation of the TCTDA, seconded by Chairman Hawkins.

The motion to appoint Libby Freeman passed by a vote of 3-2, with Chairman Hawkins and Commissioner Lemel voting against.

The motion to appoint Kevin Howell failed 2 to 3, with Commissioners Cathey, Chappell and Guice voting against.

OLD BUSINESS

ARCHITECT AND CONSTRUCTION MANAGER AT RISK CONTRACTS FOR SCHOOL BOND PROJECTS

The Board of Education requested approval of a Construction Manager-at-Risk (CMAR) contract for Brevard High, Rosman Middle and Rosman High School and architect's contracts for each site in late September. John Kubis with Teague and Campbell reviewed the contracts on behalf of the Board of

Commissioners and raised issues that needed to be addressed, including the soils reports being an attachment to the contract. Soils reports were not complete until December, thereby delaying the ability to approve the contracts. The contracts should also include the Interlocal Agreement between the Board of Education and Board of Commissioners as an attachment to assure the contractors are informed of the requirements and limitations therein.

The budgets submitted for approval by project are as follows:

	Brevard	Rosman	Total
Construction cost	38,992,092	23,381,006	62,373,098
Professional services	2,474,884	1,345,871	3,820,755
Owner contingency	<u>1,133,024</u>	<u>673,123</u>	<u>1,806,147</u>
	42,600,000	25,400,000	68,000,000

The Manager stated there are three separate contracts requiring approval totaling \$3.8 million; however, they include provisions for adjustments once the cost of the projects is determined by the CMAR. The Interlocal Agreement between the two Boards restricts the total sum to \$68 million.

The Manager recommended approval of all three contracts and authorized the Chairman to sign them on behalf of Transylvania County. She also recommended approval the project breakdown as submitted (above) for the \$68 million in projects.

Staff and counsel for both the Board of Education and the Board of Commissioners worked diligently on these documents to ensure the legal language was appropriate for the purpose of protecting the public's investment.

Commissioner Lemel moved to authorize the Chairman to sign the architect contracts and the CMAR contract, seconded by Commissioner Cathey. Commissioner Chappell was very appreciative of staffs' efforts. He understood the process took longer than desired but noted this will be the largest building project ever completed in Transylvania County. Therefore, it is even more important that the contracts are right. Commissioner Guice thanked the leadership from both organizations and the work they have done thus far. Commissioner Cathey thanked the voters who supported the bond. At this time, Chairman Hawkins and Commissioner Chappell gave a brief update on the School Bond Construction Committee that met last week. The meeting was very positive. The design work continues and is on schedule. Chairman Hawkins was struck that the feedback and input has largely been in step with the preconstruction work research has shown. This is positive and encouraging. There is lots of work to be done, including interactive work with staff and the public. His overall impression of the meeting was that a lot of work is being done and everything appears to be moving along well. Commissioner Chappell echoed his comments. He agreed that the preliminary work and follow up are syncing up well with each other. He was also pleased to learn that the soils and seismic testing revealed much less mitigation would be needed; therefore, funds can be redirected to the classroom. **The motion was approved unanimously.**

Commissioner Cathey moved to approve the budget breakdown as submitted, seconded by Commissioners Guice and Lemel simultaneously, and unanimously approved.

Chairman Hawkins thanked the members of the Board of Education and Transylvania County School Administration for being in attendance.

NEW BUSINESS

FIRE PROTECTION CONTRACT WITH CITY OF BREVARD

Assistant County Manager David McNeill presented this item. The Board of Commissioners asked staff to review the contract with the City of Brevard for providing fire protection service in the Sylvan Valley II service district. The contract has been revised to clearly state expectations of the County and City pertaining to fire protection, rescue and medical first response services covered by the contractual arrangement. Key elements in the contract revision include:

- Specified light rescue services
- Clarified budget submission and approval process
- Process to request fee structure
- Dispatch protocol development
- Clarified minimal performance standards
- Revised process for communication of citizen concern
- Clarified reporting requirements and accountability measures

Staff has met with City officials to review the final contract and all are in agreement. Medical first response in the Sylvan Valley II service district will continue to be provided by the Transylvania County Rescue Squad.

Mr. McNeill asked the Board to approve the proposed contract as presented.

Commissioner Cathey moved to approve the fire protection contract with the City of Brevard for the Sylvan Valley II fire district, seconded by Commissioner Chappell. Commissioner Chappell was appreciative of the contract negotiation process to ensure everyone understood the expectations and reporting requirements. Chairman Hawkins asked why the City of Brevard is hesitant to provide medical first response. Mr. McNeill noted that all other fire departments throughout the County provide medical first response within their respective districts. The Transylvania County Rescue Squad is located within the city limits of Brevard and, at one time, the City contributed toward funding of the Rescue Squad. First response calls within the City and Sylvan Valley II service district are significantly higher than in other districts. Both could very well be factors as to why the City is hesitant; however, Mr. McNeill stated this is something that should be considered in the future for consistency in services being provided by all departments. He also pointed out the County funds the Rescue Squad which in turn provides medical first response within the City's jurisdiction. Commissioner Cathey asked if the medical first response discussion contemplates the use of paramedics or EMTs. Mr. McNeill stated each department throughout the County has varying levels of first response. The Rescue Squad has a variety of first responders. Brevard Fire Department does as well. They respond at a medical first response level. Transylvania County EMS is the only department that responds at the paramedic level. **The motion was approved unanimously.**

REGISTERED ANIMAL SHELTER-ANIMAL OWNERSHIP TRANSFER AGREEMENT

Assistant County Manager David McNeill presented this item. In November 2019, the Board of Commissioners approved a Rescue Organization Agreement for rescue organizations that partner with Transylvania County Animal Services. While working with partner agencies to implement the agreements, Animal Services staff developed a strategy that reduces duplication of efforts for registered animal shelter partners and Transylvania County. Staff shared the strategy with Dr. Norris, Director of the Animal Welfare Section, Veterinary Division of the North Carolina Department of Agriculture and Consumer Services. Dr. Norris was very supportive of the transfer of ownership approach for registered partner shelters and felt it was a great tool to conserve limited resources.

The Animal Ownership Transfer Agreement only applies to shelters registered and regulated by the Animal Welfare Section, Veterinary Division of the North Carolina Department of Agriculture and Consumer Services. Given that the State regulates the operation of these shelters, all care and responsibility for the animals once ownership has been transferred belongs to the registered shelter.

The County continues to reserve the right to choose which shelters to partner with and will take into consideration current or prior violations when partnering with registered shelters. Staff believes this is an excellent opportunity to improve efficiency while continuing to provide and promote exceptional and humane animal care.

If approved, staff will work with each of its current rescue organizations to complete an updated application and agreement and work with registered shelter partners to implement the animal transfer agreements.

Commissioner Chappell moved to approve the Animal Transfer Application and Agreement as presented, seconded by Commissioner Lemel and unanimously approved.

MANAGER'S REPORT

The Manager reported the following:

- Capital workshop will be on the agenda for the next regular Commissioners' meeting
 - Review large capital needs identified
 - Revised fiscal model
 - Discussion
- The 2020 Regional Leadership Summit on Broadband hosted by UNC Asheville and the West Next Generation Network Steering Committee is January 27
 - Manager Laughter will be on a panel with other municipal and county managers from the region to talk about efforts to expand broadband access and the tools that would assist the effort
- Census 2020
 - Pay rate for Census takers has been increased to \$17/hour locally
 - Apply now with paid training in February/March with work in the spring/summer
 - Flexible with weekly hours as low as 10/week or a fuller schedule if desired
 - Ability to complete Census online; postcards to citizens soon as a reminder
- New pads for pickleball have been installed at Activity Center; waiting on court finish; also, at Activity Center are new showers for recreation users and when the facility is used as an emergency shelter
- Storm water work is underway for Silvermont trail paving and for the Jameson's Joy partnership ninja warrior style playground
- Gaia Herbs/Town of Rosman engineering RFQ will be released this month to design the sewer line and prepare bid documents
- GetSet toolkit for January is ready to launch next week; toolkit focuses on traumatic experiences and will include a handmade item for each child made by volunteers. A huge thank you to those volunteers for their time and effort!
- Kudos to Finance Director Jonathan Griffin and his staff for their work on their software conversion; it is a monumental task and a lot of time and effort has gone into this work

Commissioner Lemel recognized the coordinator of the handmade blanket for each toolkit, Mrs. Kae Parker.

Commissioner Chappell asked for next year to see the data on the usage of the pickleball and the showers to ensure they are being used as anticipated.

Chairman Hawkins stressed the importance of the upcoming 2020 Census. He asked the Manager to work with the local media to ensure that the message gets out to the public.

PUBLIC COMMENT

The comments made by the public represent the individual speaker's opinion or point of view. No attempt was made to vet their statements for accuracy or modify them based on facts.

Carroll Parker: Mr. Parker expressed several concerns about the proposed Dollar General Store. He believes there are real issues with the 100-year flood code and the historic data may not apply to current situations. In his recent research of 100-year and 500-year floods, he found two floods over the past two years that were considered 1,000-year floods. One was in Columbia, SC that reached the coast and the other was in Atlanta, GA. Mr. Parker stated the floods all had the same characteristics as the 1916 flood in which two weather patterns moved in one week after the other bringing with them lots of rain. During the 1916 flood, Transylvania County received 5" in the first week and nearly 17" in the second week. The data was collected in Brevard, although most of the rain falls in the upper end of the County. During that time, most of the roads were unpaved. Transylvania County is five times the population it was in 1916. Mr. Parker also commented about an interview on *60 Minutes* with a professor from Princeton University who served on a committee that worked on a report on flooding that was subsequently submitted to the United Nations, and he concluded that in 30 years we should expect a 100-year flood every year. Mr. Parker stated the issue is much larger than just a proposed Dollar General Store being built in an area that floods; there is no longer any resilience to the flooding. He stated that we cannot prevent the weather, but we can be prepared for flooding. He thought it was time for the County to get serious about this issue.

Christy Blakely: Ms. Blakely spoke to the Board in reference to floodplain issues. Referencing the floodplain ordinance, the interpretation application of the ordinance is that all provisions should be considered as minimum requirements and that they should be liberally construed in favor of the governing body. She pointed out there is so much concern over the site for the proposed Dollar General Store due to the complexity of the site and flood waters coming from multiple areas, and she wondered if the County could move away from the thought process that this is just a technical review process in which permits must be issued and instead take the stance that the flood ordinance should be considered a minimum requirement. She said it could be as simple as the County not tolerating projects that increase occurrences of roads being closed due to flooding or that would jeopardize roads being closed. In general, she said many people understand that this area of the County floods, but they are happy that US-276 remains open. To just approve a project that might jeopardize US-276 staying open is short-sighted. Ms. Blakely quoted other provisions of the ordinance which gave her hope that there could be remedies to protect citizens and minimize damage to public facilities. She asked the Board to convey to the public that there are, in fact, certain instances where sites are so complicated and there is such a concern for flooding that they could look beyond the technical aspect of the ordinance and consider it as a minimum requirement.

COMMISSIONERS' COMMENTS

Commissioner Cathey commended the Clerk of Court's Office and Sheriff's Office for how they conduct themselves in the Courthouse. He was appreciative of the work they do and for their dedication to protecting the public.

Commissioner Lemel reminded the public that the final fire tax input meeting will be at the Quebec Community Center on Thursday evening. She was also proud to announce that the Pisgah Health Foundation awarded a grant to Transylvania County's Get Set to initiate the Family Connects program which is a first year of life home visitation program for infants. This program was started at Duke University. Transylvania County is on the cutting edge of rural communities to receive that program.

Commissioner Guice referred to an implication made during public comments that the Board had information about trout waters and buffer requirements. He pointed out the Board received the information just minutes before the meeting began and none of the Commissioners had time to read the three documents placed before them prior to the start of the meeting. He was bothered by the implication that the Board had information in front of them that they didn't respond to. He pointed out the documentation contains information from the NC Department of Environmental and Natural Resources, not the County.

Commissioner Chappell thanked the Manager for preparing answers quickly and unexpectedly for the Board and public this evening. She always does a good job with providing the best information, even though it is not always what people want to hear. Nonetheless, she is always professional in her response to both the public and the Board. Commissioner Chappell stressed to the public that the Board cannot choose sides regardless of their personal feelings. The role of the Board of Commissioners is to follow established law and to act within the restrictions placed on counties by the State of North Carolina. He stressed it is imperative that counties remain neutral and follow the law, or else it opens them up to lawsuits. Commissioner Cathey agreed that Commissioners must maintain impartiality.

Commissioner Guice commented that the available fund balance percentage is lower than in previous years, but Commissioners chose to place funds in designated reserves to address the County's many needs. Chairman Hawkins concurred and commented that in his earlier remarks he did not mean to imply that the Board has not made calculated choices. He felt the Board has made choices for the County to be successful in the future.

Chairman Hawkins moved to enter into closed session per NC General Statute § 143-318.11 (a) (5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease, after a 5 minute recess, seconded simultaneously by Commissioners Cathey and Lemel and unanimously carried.

CLOSED SESSION

Per NC General Statute § 143-318.11 (a) (5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease, closed session was entered into at 6:15 p.m. Present were Chairman Hawkins, Commissioners Cathey, Chappell, Guice and Lemel, County Manager Jaime Laughter, County Attorney John Kubis and Clerk to the Board Trisha Hogan.

The Manager updated the Board on negotiation efforts on the potential acquisition of real property. The Board directed the Manager on how to proceed.

Chairman Hawkins moved to leave closed session, seconded by Commissioner Cathey and unanimously approved.

OPEN SESSION

Commissioner Chappell 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, seconded by Commissioner Lemel and unanimously approved.

ADJOURNMENT

There being no further business to come before the Board, **Chairman Hawkins moved to adjourn the meeting at 6:35 p.m., seconded by Commissioner Lemel and unanimously approved.**

Mike Hawkins, Chair
Transylvania County Board of Commissioners

ATTEST:

Trisha M. Hogan, Clerk to the Board