

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**April 25, 2022 – REGULAR MEETING**

The Board of Commissioners of Transylvania County met in a regular session on Monday, April 25, 2022 at 6:00 p.m. in the Multipurpose Chambers at the County Administration Building, located at 101 S. Broad Street, Brevard, NC.

Commissioners present were Larry Chapman, Chairman Jason Chappell, Vice-Chairman Jake Dalton, David Guice, and Teresa McCall. Also present were County Manager Jaime Laughter and Clerk to the Board Trisha Hogan. County Attorney Patrick Scott participated remotely via Zoom meeting software.

Media: Dan Dewitt – *Brevard Newsbeat*  
Jonathan Rich – *The Transylvania Times*

There were approximately 60 people in the audience, including department heads and staff presenters.

**CALL TO ORDER**

Chairman Jason Chappell presiding declared a quorum was present and called the meeting to order at 6:02 p.m.

**WELCOME**

Chairman Chappell welcomed everyone to the meeting. He introduced Commissioners and staff in attendance.

**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.*

Tawny McCoy: Ms. McCoy is the Chair of the Transylvania County Board of Education. She was disappointed that funding for the bond was not on the Board of Commissioners' agenda. She stressed that the School System has critical facility needs and she felt that the Board of Education had done its part to make those needs known to the Board of Commissioners. Ms. McCoy also referred to a funding request for an additional capital outlay that is on the Board's agenda tonight and asked the Commissioners to respect that the Board of Education's decisions are what they feel is best for the School System. Before arbitrarily making a decision that will affect the School System's budget, Ms. McCoy asked the Commissioners to consider the funding request.

Ron Kiviniemi: Mr. Kiviniemi is the Vice-Chair of the Transylvania County Board of Education. He shared that the Board of Education approved the architectural and construction manager-at-risk contract revisions for the bond projects in January and submitted them to the Board of Commissioners for approval, but they have yet to be approved by the County. At the joint meeting in January, the Board of Education encouraged the Commissioners to make a timely decision on the approval of those contracts. He did not consider three months to be timely. Mr. Kiviniemi said it appears that the Board of Commissioners wants to control the School System's decisions concerning capital funding and current expense which is an encroachment upon the duly elected Board of Education.

Ed Winstead: Mr. Winstead addressed the Board regarding an NCDOT project to replace the bridge on Green Road. He stated that if the bridge is constructed to the current specifications, it will continue to flood in periods of heavy rain and impact many farmers' properties. He also heard unverifiable rumors that NCDOT has not completed all the necessary permits for the project. Mr. Winstead understood the Board has very little direct influence over the NCDOT, but he asked for the County's assistance due to the impact the project will have on surrounding properties. Additionally, Mr. Winstead shared that several vanloads of young men were dropped off in Rosman last week and he asked how the County planned to deal with them in terms of housing, food, clothing, and medical care.

Kristi Brown: Ms. Brown is the Clerk of Superior Court for Transylvania County. Ms. Brown thanked the County's Maintenance Department for quickly addressing a leak in the basement storage room of the Courthouse. She is waiting on First Restoration to complete the clean-up. Ms. Brown reminded the Commissioners that the Courthouse needs discussion has been ongoing since 1995 and the current facility does not meet the needs of court functions. She stated she was informed that it would take an order from a judge to compel the Board of Commissioners to act, and if that were the case, she would approach the Senior Resident Superior Court Judge for that purpose.

Marcy Thompson: Ms. Thompson addressed the Board representing the Joint Historic Preservation Commission. She thanked the Board for their continued support and their consideration of a proclamation in honor of Historic Preservation Month. She provided the Commissioners and the public with a rack card that listed all the historically related events scheduled throughout May. She highlighted two upcoming events: May 3 is the final report for the cultural and architectural survey of the African American communities in Transylvania County that was undertaken in 2019 and May 14 is the Appalachian Folk Festival at the Allison-Deavor House hosted by the Transylvania County Historical Society and the Transylvania Heritage Museum. Everyone is invited to attend these events.

Jason Hayes: Mr. Hayes is an Assistant District Attorney in this district. He stated that the business that goes on inside the Courthouse impacts the rights of the residents of Transylvania County and the current facilities do not adequately meet those needs or the needs of the judicial offices. He stated that the facility has changed very little in the past 20 years except that conditions continue to worsen. Mr. Hayes asked the Board to consider putting the Courthouse on an agenda soon.

Beth Dierauf: Ms. Dierauf is an Assistant District Attorney and has been employed in this district since 1995. She recalled that during a jury trial many years, the Superior Court Judge told the jurors to write the County Commissioners informing them of how poor the facilities were and how they did not meet the needs of the judicial system. That judge retired in 2008. She reiterated the point that the Courthouse discussion has been ongoing for many years. She was disappointed that the Board did not move forward as expected in 2018. While she appreciated the Commissioners conducting several studies based on what they were hearing from their constituents, she felt that the Board now had adequate information to make a decision and she asked the Board to do so as quickly as possible.

Rebecca Hall: Ms. Hall has been an Assistant Clerk in the Clerk of Superior Court's office for the last 16 years. During that time, she has witnessed ongoing structural issues - ceiling fell in her office, plaster fell from the ceiling in the stairwell, major leak in the basement, etc. - all of which could have endangered the staff or public. She stressed that the building and location are unsafe for all users. Ms. Hall reminded Commissioners that it is their responsibility to provide safe and adequate court facilities and she does not feel like they have done so.

Alice Wellborn: Ms. Wellborn was concerned that the decision on the school bond projects contracts was not on the agenda, despite Chairman's Chappell assertion at the previous meeting that they would be. She questioned why the Board continues to delay the bond projects and accused Commissioners of doing so

on purpose. She questioned whether the Board of Commissioners had a plan to address the facility needs because the public wants to know. Ms. Wellborn accused the Board of trying to force consolidation which the School Board has already decided was not in the best interest of the students. She asked what would happen to the monies that the County has been collecting from the taxpayers specifically for the bond projects and noted that the rumor is the Commissioners intend to divert those monies toward a new courthouse. She questioned the Board's motives and ethics and urged them to vote on the issues so that the public knows where they stand.

Harold Paxton: Mr. Paxton addressed the Board regarding an NCDOT project to replace the bridge on Green Road. Those in that community do not support the project because the area already floods several times a year and the project as designed will likely increase flooding and impact property owners. Mr. Paxton shared that the NCDOR informed residents that the increase in flooding would be insignificant. He also heard unvalidated rumors that the project may not be fully permitted. He asked the Board to support the community in their efforts to convince the NCDOT to review this project further because the NCDOT is ignoring them.

David Whitmire: Mr. Whitmire is the owner of Headwaters Outfitters in Rosman, and he serves on the Transylvania Natural Resources Council. He addressed the Board about the Green Road bridge projects and stated it will have negative impacts on the property owners. He shared that none of the landowners disagree about the need for a new bridge, but the NCDOT's plan to raise the road will cause harm. NCDOT has agreed to some modifications, such as removing the cement columns from the current bridge but plans to include a dyke will cause significant flooding over and above the normal flooding. He also heard, like others, that they did not have the necessary permits. Mr. Whitmire asked the Board of Commissioners to submit a letter to the NCDOT requesting that they consider conducting a study to determine the impacts of this project and propose better alternatives.

### AGENDA MODIFICATIONS

There were no agenda modifications.

**Commissioner Guice moved to approve the agenda as submitted, seconded by Commissioner Chapman, and unanimously approved.**

### CONSENT AGENDA

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

The following items were approved:

#### MINUTES

The Board of Commissioners met in a regular session on September 27, 2021 and following met in a closed session in which the minutes were sealed. The Board of Commissioners also met in a regular session on October 11, 2021 and following met in a closed session in which the minutes were sealed. The Board approved the minutes as submitted.

#### DISCOVERY, RELEASE, AND MONTHLY SETTLEMENT REPORT

Per § N.C.G.S. 105-312 (b), the Tax Administrator must see that all property not properly listed during the regular listing period be listed, assessed, and taxed. The Tax Administrator shall file such reports of discoveries with the Board of Commissioners. Per N.C.G.S. § 105-381 (b), the Tax Administrator must provide a monthly report to the Board of Commissioners of the actions taken by the Tax Administrator on

requests for release or refund, which shall be recorded in the minutes. For March 2022, tax dollars released totaled \$457.06, and refunds amounted to \$1,600.00. The Board approved the Discovery, Release, and Monthly Settlement Report for March 2022 as submitted.

**PROCLAMATION – NATIONAL PUBLIC SERVICE RECOGNITION WEEK**

Celebrated the first full week in May, Public Service Recognition Week is a time set aside to honor the men and women who serve our nation as federal, state, county, and local government employees. Commissioners will recognize and honor County employees by hosting an Employee Appreciation Event on May 25 at the Library Amphitheater. Human Resources and Administration staff are planning the details of the event which will include food and entertainment. More information will be forthcoming. The Board approved Proclamation #12-2022 proclaiming the week of May 1-7 as National Public Service Recognition Week.

**PROCLAMATION #12-2022  
NATIONAL PUBLIC SERVICE RECOGNITION WEEK**

**WHEREAS**, Public servants at the local, state and federal levels work selflessly to provide for the needs of citizens on a daily basis; and

**WHEREAS**, Government employees are committed to carrying out their duties, responsibilities, and oaths not only in times of prosperity and calm but also in times of duress and uncertainty; and

**WHEREAS**, The global pandemic has revealed the critical nature of work performed by our *local* public servants who have ensured continuity of services by transforming operations that were once routine and predictable through agility, adaptation, creativity, and innovation; and

**WHEREAS**, Transylvania County's employees have collaborated across departmental lines to ensure the safety and well-being of our citizens by providing essential services such as emergency response, public health, social services, solid waste services, sanitation of facilities, childcare, and transportation services; and

**WHEREAS**, We have witnessed our public servants display their courage and humanity in these unprecedented times; placing service before self in their dedication to our community and their support of each other; and

**WHEREAS**, Transylvania County's employees are doing important work that positively affects all of us every day, and they work to address the incredible challenges our citizens are facing; and

**WHEREAS**, Public servants deserve thanks for working diligently on our behalf. Government service is public service.

**THEREFORE, BE IT RESOLVED** by the Transylvania County Board of Commissioners to recognize the week of May 1-7, 2022 as National Public Service Recognition Week and to encourage citizens to recognize the accomplishments and contributions of government employees at all levels.

This the 25<sup>th</sup> day of April 2022.

S://Jason R. Chappell, Chairman  
Transylvania County Board of Commissioners

PROCLAMATION – NATIONAL DAY OF PRAYER

In 1988 both Houses of Congress adopted legislation declaring the first Thursday in May of each year as the National Day of Prayer. Commissioners wished to proclaim May 5, 2022 as “A Day of Prayer in Transylvania County.” The Board of Commissioners has adopted similar proclamations over the past several years. This year’s theme, “Exalt the Lord Who Has Established Us,” is based on the verses in Colossians 2:6-7. There will be an informal event at the Courthouse Gazebo on Thursday, May 5 at noon and all are invited to attend. The Board approved Proclamation #13-2022 National Day of Prayer 2022.

**Proclamation # 13-2022  
National Day of Prayer**

**WHEREAS**, Throughout the history of America, faith in Almighty God has been deeply rooted in the foundation and building up of this great nation; from the early pilgrims to the Continental Congress, to the many Presidents and Governors who have served, we have exalted the Lord; giving Him praise and overflowing with gratitude throughout the generations as He carries us through times of great crisis and celebration; and

**WHEREAS**, In Transylvania County and across America, the observance of the National Day of Prayer will be held on Thursday, May 5, 2022, with the theme, “Exalt The Lord Who Has Established Us,” based on the verses in Colossians 2:6-7, “Therefore as you have received Christ Jesus the Lord, so walk in Him, having been firmly rooted and now being built up in Him and established in your faith, just as you were instructed, and overflowing with gratitude.”; and

**WHEREAS**, A National Day of Prayer has been a part of our heritage since it was declared by the First Continental Congress in 1775 and a Public Law established in the United States Congress in 1952 approved by a Joint Resolution and later amended by Congress and President Reagan with Public Law 100-307 in 1988, affirming that it is essential for us as a nation to pray and directs the President of the United States to set aside and proclaim the first Thursday of May annually as a National Day of Prayer; and

**WHEREAS**, Leaders and citizens of our nation are afforded the privilege of prayer, affirming our spiritual legacy of instituting times of thankfulness and renewed reliance on Almighty God; we ought to exercise the freedoms we have to gather and pray, to unify hearts, communities, and our country, while we hold dear to our faith, freedoms, and to one another as fellow Americans all fearfully and wonderfully created in the image of God. May we take time to pray for our nation and our neighbors;

**NOW, THEREFORE**, the Board of Commissioners of Transylvania County does hereby proclaim, May 5, 2022, as a **DAY OF PRAYER** in Transylvania County and we commend this observance to all of our citizens.

This the 25<sup>th</sup> day of April 2022.

S://Jason R. Chappell, Chairman  
Transylvania County Board of Commissioners

PROCLAMATION – NATIONAL POLICE WEEK

The week of May 11-17, 2022 is National Police Week with Peace Officers Memorial Day designated on May 15. Sheriff David Mahoney requested that the Board of Commissioners publicly recognize and salute the service of law enforcement officers in our community and communities across the nation. This is an annual proclamation approved by the Board of Commissioners and is presented to both the Sheriff’s

Office and Brevard Police Department. The Board approved Proclamation #14-2022 National Police Week 2022.

**Proclamation #14-2022  
National Police Week 2022**

*To recognize National Police Week 2022 and to honor the service and sacrifice of those law enforcement officers killed in the line of duty while protecting our communities and safeguarding our democracy.*

**Whereas**, The week of May 11-17, 2022 has been designated as National Police Week, with Peace Officers Memorial Day on May 15 in honor of all fallen officers and their families; U.S. flags should be flown at half-staff on Peace Officers Memorial Day; and

**Whereas**, There are more than 800,000 law enforcement officers serving in communities across the United States, including the dedicated members of the Transylvania County Sheriff's Office and Brevard Police Department; and

**Whereas**, Those brave men and women selflessly confront danger to protect our families and defend our communities; and

**Whereas**, Since the first recorded police death in 1786, there have been more than 22,000 law enforcement officers killed in the line of duty; currently, there are 22,611 names engraved on the walls of the National Law Enforcement Officers Memorial; and

**Whereas**, We honor all those in blue who have been killed or disabled in the line of duty and we are mindful of the tremendous sacrifices they made protecting their communities; and

**Whereas**, Our nation's law enforcement officers serve with courage, dedication, and strength; they fearlessly enforce our laws, safeguarding our property, our liberty, and our lives;

**Therefore, Be It Resolved** that the Board of Commissioners of Transylvania County formally designates May 11-17, 2022, as Police Week in Transylvania County, and publicly salutes the service of law enforcement officers in our community and communities across the nation. We owe them and their families our full and enduring support.

This the 25<sup>th</sup> day of April 2022.

S://Jason R. Chappell, Chairman  
Transylvania County Board of Commissioners

**PROCLAMATION – OLDER AMERICANS MONTH**

Each year the Council on Aging and DSS Adult Services Division request that the Board of Commissioners approve a proclamation declaring May of that year as Older Americans Month to recognize the many contributions of our senior citizens. When Older Americans Month was established in 1963, only 17 million living Americans had reached their 65th birthday. About a third of older Americans lived in poverty and there were few programs to meet their needs. Interest in older Americans and their concerns was growing. A meeting in April 1963 between President John F. Kennedy and members of the National Council of Senior Citizens led to designating May as "Senior Citizens Month," the prelude to "Older Americans Month." Historically, Older Americans Month has been a time to acknowledge the contributions of past and current older persons to our country, in particular those who defended our

country. Every President since Kennedy has issued a formal proclamation during or before May asking that the entire nation pay tribute in some way to older persons in their communities. Older Americans Month is celebrated across the country through ceremonies, events, fairs, and other such activities. The Board approved Proclamation #15-2022 Older Americans Month 2022.

**Proclamation # 15-2022  
Older Americans Month 2022**

**Whereas**, Transylvania County includes a growing number of older Americans who contribute their strength, wisdom, and experience to our community; and

**Whereas**, Communities benefit when people of all ages, abilities, and backgrounds are welcomed, included, and supported; and

**Whereas**, Transylvania County recognizes our need to create a community that provides the services and supports older Americans need to thrive and live independently for as long as possible; and

**Whereas**, Transylvania County can work to build an even better community for our older residents by:

- Planning programs that encourage independence,
- Ensuring activities are responsive to individual needs and preferences, and
- Increasing access to services that support aging in place.

**Now, Therefore**, the Board of Commissioners of Transylvania County does hereby proclaim May 2022 to be Older Americans Month and urges every resident to recognize the contributions of our older citizens, help to create an inclusive society, and join efforts to support older Americans' choices about how they age in their communities.

This the 25<sup>th</sup> day of April 2022.

S://Jason R. Chappell, Chairman  
Transylvania County Board of Commissioners

**PROCLAMATION – HISTORIC PRESERVATION MONTH**

May has been deemed National Preservation Month or Historic Preservation Month since the 1970s. The historical nonprofit organizations in Transylvania County plan to celebrate Transylvania County's history in May with different events planned throughout the month. The Joint Historic Preservation Commission would like to help celebrate and promote May as Historic Preservation Month for Transylvania County with a resolution by the Board of Commissioners. The Board approved Proclamation #16-2022 proclaiming the Month of May as Historic Preservation Month in Transylvania County.

**PROCLAMATION #16-2022  
PROCLAIMING MAY 2022 AS HISTORIC PRESERVATION MONTH**

**WHEREAS**, Historic preservation is an effective tool for managing growth, revitalizing neighborhoods, fostering local pride, and maintaining community character while enhancing the livability of a community; and

**WHEREAS**, Historic preservation is relevant for communities across the nation, both urban and rural, and for Americans of all ages, all walks of life, and all ethnic backgrounds; and

**WHEREAS**, It is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as a people; and

**WHEREAS**, Transylvania County and the City of Brevard have two National Register Districts and 21 individual local landmarks.

**WHEREAS**, This May there will be a host of events that have been prepared by local historical organizations and co-sponsored by the Transylvania County Joint Historic Preservation Commission, which is appointed by the County Commissioners, to help preserve the historical identity of all Transylvania County;

**NOW, THEREFORE**, the Board of Commissioners of Transylvania County does hereby proclaim and recognize the month of May 2022 as **HISTORIC PRESERVATION MONTH**.

This is 25<sup>th</sup> day of April 2022.

S://Jason R. Chappell, Chairman  
Transylvania County Board of Commissioners

#### REQUEST FOR OUT-OF-STATE TRAVEL

The International Institute of Municipal Clerks Annual Conference will be held in Little Rock, Arkansas May 22-25, 2022. In 2019, the NC Association of County Clerks approved an amendment to its bylaws to include sending its president to the Region III IIMC Conference and Annual IIMC Conference to ensure North Carolina has representation. Trisha currently serves as the Immediate Past President of the NC Association of County Clerks. Current President Debbie Harris is unable to attend the conference, thus the Executive Committee voted to allow Trisha to attend in her stead to represent the NC Association of County Clerks. Trisha will get to carry the North Carolina Flag during the opening ceremony. Also, Tory Frink, the Alamance County Clerk will be sworn in to serve a three-year term as Director of Region III, which covers Alabama, Florida, Georgia, North Carolina, and South Carolina. This is the first time a county clerk has represented Region III; in past years, it has been a municipal clerk. The Association will reimburse all expenses including lodging, travel, and food. The Board approved the request for out-of-state travel as submitted.

#### REQUEST TO TRANSFER FUNDS FROM NARCOTICS TASK FORCE SPECIAL REVENUE ACCOUNT TO PURCHASE BALLISTIC VESTS

Transylvania County maintains a special revenue fund for the Narcotics Task Force, a division of the Transylvania County Sheriff's Office. The Narcotics Task Force's request to purchase equipment exceeds the current budget for the fund and thus would require an appropriation of the fund balance of \$17,786.63. The cash balance of the fund is sufficient to allow for this expense. Thus, staff recommended an appropriation of fund balance in the Narcotics Task Force Fund in the amount requested. The Board approved the request to transfer \$17,786.63 from the Drug Task Force Special Revenue Fund to purchase nine sets of body armor, which will properly equip and protect officers of the Transylvania County Narcotics Task Force and Special Response Team.

### **PRESENTATIONS/RECOGNITIONS**

#### PRESENTATION OF FY 2022 AUDIT & FINANCIAL STATEMENT

Finance Director Jonathan Griffin reported that the County's audit and financial statements were recently submitted to the Local Government Commission. He informed the Commissioners that included in their agenda packet was information regarding new reporting requirements required by the Local Government

Commission and he welcomed questions about them following the audit presentation. He introduced Kelly Gooderham of Martin Starnes & Associates who served as the manager over the County's 2021 audit and who is presenting an overview of the County's finances. This is a summary of Ms. Gooderham's report and the discussion that followed.

#### *Audit Highlights*

Martin Starnes issued Transylvania County's Comprehensive Annual Financial Report (CAFR) with a clean unmodified opinion which means the auditor found no material misstatements that led them to believe the financial statements would be misleading to the reader.

#### *General Fund Summary*

- Revenues increased \$0.7 million, or approximately 9%, mainly due to an increase in the local option sales tax and other taxes and licenses
- Expenditures increased \$1.4 million, or 3%, due to an increase in Public Safety and Economic and Physical Development

#### *Total Fund Balance-General Fund*

- Fund balance increased by \$1.7 million, or 8%, which was due to a larger increase in revenues and expenditures

#### *Fund Balance Position*

The available fund balance as defined by the Local Government Commission (LGC) is calculated as follows:

Total Fund Balance	
Less non-spendable (not in cash form, not available)	
<u>Less stabilization by statute (by law, not available)</u>	
Available Fund Balance	

This is the calculation utilized as the basis for comparing the County to other units and calculating fund balance percentages.

Total Fund Balance	\$36.2 million
Non-spendable	(\$4.4 million)
Stabilization by statute	<u>(\$5.6 million)</u>
Available Fund Balance FY 2020	\$26.1 million

The Fund Balance experienced an overall increase of \$1.8 million.

There are five classifications of Fund Balance:

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

## Fund Balance Position General Fund

	2021
Total Fund Balance	\$ 36,230,937
Less:	
Non-spendable	(4,484,389)
Restricted: Stabilization by State Statute	(5,603,887)
Restricted, all other	(1,237,110)
Committed	(4,756,927)
Assigned	(14,364,665)
Total unassigned Fund Balance	\$ 5,783,959

*MARTIN · STARNES*  
& ASSOCIATES, CPAs, P.A.

The Unassigned Fund Balance as a percent of the General Fund Expenditures is 9.10%. This is different from the Local Government Commission (LGC) calculation because this one excludes all restrictions, commitments, and assignments. The LGC recommends 8% which equates to one month's worth of expenditures.

### *Top Three Revenues: General Fund*

- Comprise 87% of revenues
  - Ad Valorem Taxes increased by \$812,000, or 2%, primarily due to an increase in overall collections
    - The collection rate in FY 20 was 99.78%
    - The collection rate in FY 21 was 99.81%
  - Local Option Sales Tax increased \$2.4 million, or 25%, due to an overall increase in State distributions
  - Restricted Intergovernmental revenues increased by \$745,000, or 13%, due to an increase in federal grant proceeds

### *Top Three Expenditures: General Fund*

- Comprise 73% of expenditures
  - Public Safety increased by 5% due to an increase in salaries and related benefits and capital
  - Education, excluding debt service, decreased by \$68,000, or less than 1%
  - Human Services increased \$414,000, or 4%, due to an increase in salaries and related benefits

### *Solid Waste Fund*

- Cash flow from operations -\$136,442
- Total net position \$4.8 million
- Unrestricted net position \$2.1 million

- The Overall change in net position is a decrease of \$185,776

#### *Fire Districts Fund Summary*

- Revenues increased by 10% due to an increase in ad valorem tax revenues
- Increase in expenditures correlated with the increase in related revenues

#### *Performance Indicators*

Along with the submission of the audit to the LGC, the auditor is required to complete a data input sheet with various financial information. The Finance Director reviews the enterprise fund templates for submission with the audit report. Recently, the LGC updated this template in which the data inputted provides results known as performance indicators. The auditor is now required to communicate the performance indicators to the Board, along with any audit findings. There were no significant deficiencies or material weaknesses noted; however, the County had two general performance indicators:

- The 2021 Audit Report was not submitted within five months of the fiscal year's end
- Statutory violations disclosed in footnotes, not covered by audit findings

This concluded the formal presentation. Chairman Chappell called for comments and questions from the Board.

Chairman Chappell noted that Commissioners have received handouts, specifically on the performance indicators. He asked Mr. Griffin to talk further about the performance indicators and the software change that the Finance Office underwent. Mr. Griffin explained one of the reasons the audit was late because there were more grant programs to audit to meet the threshold which is an increasing pressure point for the Finance Office. He felt the issue could be easily resolved and he has suggested some paths forward to resolve the issue. This does not mean that their internal controls are not strong, but when expenses occur in August and September, it makes it more difficult to predict for budgetary purposes. Mr. Griffin noted one of the violations was simply related to monies that pass through the County and are out of the County's control. He shared that the main goal of the North Carolina State Treasurer is to frame up processes and ensure the local governing boards are more aware of those processes.

On an unrelated issue, Commissioner Chapman asked Mr. Griffin to address the rumor that Commissioners intend to divert school bond monies toward constructing a new courthouse. Mr. Griffin reminded everyone that the Board implemented a tax increase that is expected to pay the debt service on the general obligation bonds issued to renovate school facilities. The taxes are collected each year and set aside in a capital project fund that is specifically outlined for education purposes. He advised that the purpose of those funds cannot be changed.

Commissioner Guice commented that while the audit was very thorough, it is a lot of information for the Commissioners to digest and understand in a short time. He requested information be forwarded to the Commissioners much sooner. He also thanked Mr. Griffin and his staff for all the work they do to keep the County's finances in order. Mr. Griffin offered to give Commissioners a more in-depth review and discussion of the County's finances at a future meeting if the Board is willing. He also shared that he has ideas about how to improve the information-sharing but noted that one unfortunate side-effect of the new LGC regulations is the requirement to have an in-person presentation as soon as possible following the submission of the audit. So, it puts staff and the auditor under pressure to print the full audits and prepare the presentation. With that said, staff will make every effort to improve processes in the future.

The Manager pointed out the LGC is watching local governments much closer and implementing newer requirements that are more stringent. This fact stresses the importance of adhering to compliance with documentation and reporting, not only within this organization but also with the County's funding partners. She shared that there is new legislation that allows the State Legislature to remove a finance director from his/her position.

Mr. Griffin added that the regulations make it increasingly difficult to meet the requirements, specifically with the amount of grant testing that was needed to complete the audit.

There were no further comments, and no action was needed.

#### TRANSYLVANIA COUNTY TOURISM DEVELOPMENT AUTHORITY TRANSITION UPDATE

The Manager reported that the County staff has nine weeks to finalize some of the work Transylvania County Tourism Development Authority (TCTDA) has been undertaking over the last 14 months. The Manager, Finance Director, and County Attorney have been supporting the TCTDA through that process to ensure a smooth transition effective on July 1. For this reason, she felt it was important for staff to provide the Commissioners with an update on the progress. Some information in the presentation is repetitive from the previous presentation, but staff felt it was important for the public to understand the relationship of the TCTDA to the County government. The presentation will also include information on what needs to be accomplished over the next nine weeks. The Manager turned the presentation over to Finance Director Jonathan Griffin.

#### **Overview**

Mr. Griffin reported that he had originally requested space on this agenda for the review or approval of the terms of leases for real property that were being negotiated by the TCTDA. At their most recent meeting, the TCTDA considered its options and voted to renegotiate the agreements rather than approve the already negotiated agreements. At the same meeting, the TCTDA reached a consensus to seek an alternative proposal to present to the Commissioners and to use County resources to facilitate an alternative proposal.

#### **History**

Beginning in February 2021, the TCTDA began discussing overhauling its day-to-day operations away from a partnership with the Chamber of Commerce to directly overseeing its staff. The conversation began based on information initially gathered by the Chamber staff and a consulting firm frequently used by the TDA. County staff spent the months of March to June 2021 assisting with research and information-gathering to obtain an accurate picture of the different options available for the TCTDA.

Staff provided updates to the Commissioners in September and December 2021. The TCTDA received a presentation on the process earlier in July 2021 and discussed it further at a later meeting.

#### **History of Changes**

Since 2018-2019, the TCTDA has been in a cycle of change driven in part by stronger revenue growth, but also a new vision that was implemented by its leadership:

- Developed a new strategic plan
- Added subcommittees
- Added two additional seats to the TCTDA to grow membership from seven to nine
- Expanded contract with Chamber of Commerce for additional staffing support
- Began the process to evaluate managing staff directly

**Role of County Commissioners**

The Board of Commissioners has a fiduciary oversight role over the TCTDA:

- Pursuant to S.L. 2005-88, the County creates the TCTDA after it decides to levy an occupancy tax
- The Commissioners decide the size, terms, and process for filling vacancies
- Commissioners designate the chair
- The County Finance Officer serves as the finance officer for the TCTDA
- The TCTA must provide quarterly and annual reports to the Board of Commissioners on financial statistics, contracts, and payments
- County Commissioners across the state have been asked to intervene when issues have developed in Tourism Authorities

**Relationship Between the County and TDA**

The TCTDA has separate powers under the Fiscal Control Act which allows it to authorize expenditures within a formula established by state law. It is not clear, however, from statutes whether the TCTDA is a municipal corporation and therefore able to contract, own/dispose of property independent of the County. The North Carolina General Assembly has, at times, specifically outlined in a statute that staffing for some tourism authorities is county staff. Some tourism authorities have created not-for-profit corporations, but these corporate entities become the subject of the annual audit requirement.

**County Staff Recommendations**

Early on, County staff assisted the TCTDA with the following recommendations/suggestions:

- Inclusion of County Commissioners in the TCTDA working group
- Reconfigure the contract with the Chamber to reduce the TCTDA’s ability to direct the Chamber
- Adequately assess private sector options and use the RFP/RFQ process to assess the organization for size, capacity, and ability to support Board’s vision
- Adequately assess employment options within the County’s corporate structure and use a consultant to assist Human Resources with the analysis of proposed job descriptions

**Options Considered by the Board of Commissioners**

The graphic/chart below shows options the Board of Commissioners previously considered. Mr. Griffin recapped each of them for the Commissioners.

Plan A (Private Partnership)	Plan B (County)	Plan C (Independent Entity)
<ul style="list-style-type: none"> <li>□ TDA contracts with nonprofit entity</li> <li>□ Nonprofit provides support services for a fee</li> <li>□ No agency relationship</li> </ul>	<ul style="list-style-type: none"> <li>□ County staff support TDA board</li> <li>□ Labor and personnel policies consistent with County departments and agencies</li> <li>□ Compensation comes from TDA budget</li> <li>□ Accountability for public funds standardized</li> </ul>	<ul style="list-style-type: none"> <li>□ TDA Board creates a corporate entity it controls</li> <li>□ This entity receives the occupancy tax distributions and employs staff</li> <li>□ Policies, procedures and compensation are established and set by TDA Board</li> <li>□ Independent entity subject to the annual audit</li> </ul>

### **Process on Administrative Support to TDA Board**

After the September 2021 presentation, County staff worked to identify and retain a consultant to assist with assessing County integration of the TCTDA.

That assessment included:

- Assessment of the proposed job descriptions to comply with labor laws
- Market/comparable assessment of job duties
- Revisions to job duties as needed
- Recommendations on where those duties fit within our existing personnel plan based on comparable duties, responsibilities, consequence of error

The consultant completed their work in December 2021. County staff transmitted the information to the TCTDA and followed up with a formal presentation to TCTDA.

For the private sector support option, the County Finance staff transmitted a draft RFP/RFQ document to the TCTDA in November. The TCTDA settled on a final document to release in January of this year. The response period expired on April 14 with no interest.

Staff interpreted the lack of interest as general feedback, that:

- Operating the TCTDA's mission/vision was a large task for any organization to do while still paying attention to its current mission
- Liability issues significant for small organizations

### **Other Items**

During March and February, a small working group of TCTDA board members and the Chamber of Commerce Executive Committee met to iron out other items currently covered by their agreement that was not related to staffing:

- Real estate lease costs for the office/conference space on the 2<sup>nd</sup> floor
- Real estate lease costs for the visitor's center space on the 1<sup>st</sup> floor
- Cost to operate and staff a visitor's center

### **Results of that Process**

After three meetings, the working group agreed upon the following terms:

- \$44,650/year for a three-year term for leased space related to administrative office space
- \$30,363/year for a three-year term for leased space related to the visitor's center
- \$56,032/year for a three-year term for operating the visitor's center (TCTDA purchasing services from Chamber)

On April 8, the TCTDA board reviewed these terms and decided to renegotiate with the Chamber:

- One-year term only
- Reduced administrative office space (cutting out the use of the Chamber's conference rooms, so all TCTDA meetings (regular board + subcommittees) would occur in the County's facilities
- Requested lower price per square foot in future years
- Consideration of reduction or elimination of the visitor's center

### **Decision/Feedback Points for the Board of Commissioners' Consideration**

#### *TCTDA Operations*

The Commissioners previously supported using the RFQ/RFP process (Plan A) versus having County staff handling the day-to-day TCTDA operations (Plan B) and voted to remove (Plan C) from consideration.

*Leases / Real Estate / Visitor's Center / Contracts*

The County does not currently have access to space to house TCTDA functions:

- TCTDA discussed seeking a one-year term rather than three-year
- TCTDA expressed concern about the price
- TCTDA discussed during its retreat the possibility of ending the visitor's center operations

TCTDA still needs to approve a marketing contract for FY 2023:

- A review by the Commissioners is necessary

This concluded the formal presentation. The Manager added that staff continues to work with the TCTDA chair to communicate that the deadlines for deciding on the structure and operation of the TCTDA are fast approaching, as well as provide information on the options that exist for consideration. To be prepared for the implementation of one of those options, staff will be bringing elements to the Board of Commissioners at each of their next few meetings for approval.

Commissioners asked a series of questions from staff to better understand the issue. This is a summary:

Commissioner Guice asked staff to explain what would happen if these items were not approved by July 1. The Manager explained that the TCTDA would have no staff, no marketing contract, and no place to house their activities, therefore the work of the TCTDA would come to a halt. Mr. Griffin added that the County would continue collecting the occupancy tax unless the Board voted to change the rate in the upcoming budget and any occupancy taxes collected would be reserved in an account.

Commissioner Chapman inquired further about the occupancy tax rate and asked if there was a statutory timeline to approve, reduce or eliminate the occupancy tax. Mr. Griffin explained that the occupancy tax rate is set in the annual budget ordinance just as the Board does with the ad valorem tax rate. The statutory deadline for the budget ordinance is July 1 of each year.

Commissioner Guice asked if the TCTDA was required to employ staff or lease space. Mr. Griffin stated that the TCTDA does not have to employ staff and could structure the organization like a nonprofit. The TCTDA has created several subcommittees that require meeting space. The subcommittees are currently meeting in the Chamber of Commerce offices. If the TCTDA does not employ staff or lease space, they would need to find suitable community space to hold their meetings and comply with Open Meetings Law. The TCTDA could operate with only a marketing contract with the financial component managed through the County.

Commissioner Guice asked if the TCTDA could use all its funding directly on tourism-related items rather than on staff. Mr. Griffin said it would depend on how the TCTDA followed the two-thirds/one-third law whereby two-thirds of the occupancy tax must be spent on promotional activities and one-third on tourism.

Chairman Chappell shared that he was not in favor of Plan C to create an independent entity because he did not feel it was in the best interest of the citizens.

Commissioner Guice felt it was worth exploring the option for the TCTDA to operate under a marketing contract rather than spending funds on staffing and a lease. He also felt that it would be difficult for a nonprofit to take over operations.

Commissioner Chapman noted the TCTDA currently only employs three staff so for him, it made sense to bring them on as County employees with the support of a Human Resources department. He felt that the

lease amount being requested by the Chamber of Commerce was high and thus he was unsure if the lease was a good expenditure of funds.

Commissioner McCall did not support Plan C to create an independent entity, but she was not ready to decide on the structure without having more information on the consequences of each option.

Chairman Chappell requested staff add this item to the next agenda so the Commissioners can begin making decisions. He asked staff to provide information on the components of each plan structure, the relationships and responsibilities of each option, salary and benefits comparison, and a review of their budget and how it is utilized.

## APPOINTMENTS

### JOINT HISTORIC PRESERVATION COMMISSION

There is one vacancy on the Joint Historic Preservation Commission. The Clerk to the Board advertised and received one application from Katherine Buzby. She works with the City of Brevard as a Planner. The Board will consider other upcoming appointments during a meeting in May.

**Commissioner McCall moved to appoint Katherine Buzby to fill the member-at-large vacancy on the Joint Historic Preservation Commission, seconded by Commissioner Guice and unanimously approved.**

Commissioner McCall was disappointed with the lack of citizen participation across the board on the County's many citizen advisory councils. She stressed that public input and participation are important for the work the Commissioners do, so she encouraged citizens to review the various boards and committees and apply to serve.

## OLD BUSINESS

### STATE ARPA INFRASTRUCTURE FUNDS

Finance Director Jonathan Griffin presented this update to the Board. In the State budget (Session Law 2021-180), the General Assembly included a \$7 million appropriation to Transylvania County from the State Water and Sewer Infrastructure Fund to fund impactful projects for the County. This State allocated ARPA funding has a time limit for spending by 2026 with advanced deadlines for NCDEQ to assure that the State funds are spent by the federal deadline.

The specific program in the State budget is authorized by the Drinking Water and Wastewater Reserve Program and the authorization of funding is to Transylvania County for water and sewer. An initial priority for the funds included a partnership with Rosman to permit and build a surface water treatment plant and an intake based on a request for \$7 million identified by the Town for that purpose. Transylvania County secured engineering services in January and has been coordinating with NCDEQ to map out the project timeline and budget. This work has revealed that the funding needed to accomplish the full scope of work initially anticipated is \$15 million and the first step of securing an intake site and reclassification will take three to five years using a portion of those funds. T

To spend the ARPA allocated funds within the time required by the federal ARPA legislation and the increased amount required to complete the full project, staff will need to work with the engineer to rescope the spending of \$7 million while accomplishing as much as possible towards a water intake as suggested in the Transylvania County 2014 Potable Water Supply Planning Study. This will prevent the reversion of the funds back to the State and accomplish the initial intent to invest in impactful infrastructure projects in Transylvania County. Because these funds were earmarked for Transylvania

County, the Board of Commissioners is responsible for ensuring these funds are spent appropriately and timely to avoid payback to the State and federal government.

The staff did not request any action from the Board. The purpose of this item was to inform the Board and the public of the status of these funds.

## **NEW BUSINESS**

### REQUEST FROM TRANSYLVANIA COUNTY BOARD OF EDUCATION FOR ADDITIONAL APPROPRIATION OF FY 22 CAPITAL OUTLAY FUNDS

The Manager stated that while the statutes are not always straightforward, the County Commissioners are responsible for providing capital outlay funding for the School System. This is a huge responsibility because the Board of Commissioners is directly accountable to the taxpayers. She stated that when any department or agency requests funding, the staff is obligated to review those requests closely to ensure there is funding available and justify the need. She invited Finance Director Jonathan Griffin to present to the Board the next two agenda items and an analysis of the requests and staff recommendations.

Mr. Griffin reported that on April 4, 2022, the Transylvania County Board of Education, discussed and took several actions related to a proposed capital project to replace HVAC/piping at Pisgah Forest Elementary school.

The proposed project's bid was \$1.2 million. Transylvania County Schools has proposed to finance the project through the following methods:

- Withdrawing \$570,000 from the Public School Building Capital Fund (restricted lottery revenues)
- Transferring \$630,000 from the Transylvania County Schools General Fund (revenue and expenses related to locally funded positions and operating expenses) to their Capital Project Fund

Both recommendations require the consent and approval of the Board of Commissioners. It is the decision of the Commissioners on how to fund capital improvements.

North Carolina law intends that the decision-making around lottery revenue is made jointly between the two elected boards and that the Board of Commissioners must approve transfers of resources to the school capital outlay fund per N.C.G.S. § 115C-433.

There are two primary issues for the Board to consider:

- This proposal reduces the resources available for the operations of the School System
  - Under this proposal, \$600,000 to operate the schools becomes \$600,000 to renovate
- The reduction in resources in the School System's general fund increases financial pressure on the County to fund operating expenses

There are alternatives to funding for Commissioners to consider:

- Appropriation from the Transylvania County Education Capital Project Fund (ECPF)
  - The cash balance in this fund is approximately \$11 million
  - These are funds being collected to pay back the general obligation bonds which have yet to be sold
- Pledge future sales tax revenues
  - Approximately \$500,000 in the accumulated difference between Transylvania County Schools' capital requests and available revenues over the last three years in the County General Fund

- The projects initially appropriated can be reallocated to this project as a higher priority.
- Request the Board of Education's consensus to pull down additional lottery revenues.
  - Balance in the account was \$1,061,303 as of March 28, 2022

Mr. Griffin also noted there is an additional policy item for the Board's consideration. Given that the project exceeds \$1 million, it may be reasonable that the Board of Education name the County government as its fiscal fiduciary agent and have the County pay the contractor directly once the Board of Education and its agents certify the work is completed to their standards. The advantages of this policy are:

- Reduces any potential cash flow issues since it eliminates the need for the money to flow from the County government through the Schools Capital Fund to the contractor and makes payments occur faster
- The County is eligible to claim full reimbursement on sales tax paid for materials (2% local rate plus 4.75% for the state rate in Transylvania County, or the other local rate depending on where the materials came from), versus the School System which can only claim the County sales tax (2%) thereby reducing the cost of the project to the taxpayer
- Since the proposal is to partially fund this from the Public School Building Capital Fund (lottery revenues) and the County will be responsible for compliance testing on these funds during its annual audit, this will simplify the accounting and auditing process

The staff made the following recommendations:

- Reject the proposal to transfer \$630,000 from the Board of Education general fund to the capital outlay fund
- Choose a funding mechanism to make \$630,000 available for the Pisgah Forest piping project
- Determine whether Commissioners are in favor of requesting that the Board of Education name the County as its fiscal agent in the contract for the project so that the County government could pay the vendor directly on the Board of Education's behalf once the Board of Education's agents has certified that the work has occurred. This will reduce the overall expense allowing recoup of sales tax and less financial processing overall.

The Manager stated that the County agrees with the School System that this project is necessary but the staff is concerned with the funding method request. Staff is trying to eliminate duplication and save taxpayers with their recommendation to pledge future sales tax. Neither the Manager nor the Finance Director recommended reducing operational funds to pay for this project. Instead, they recommended using funds already set aside for capital purposes.

In response to a question from Commissioner McCall, the Manager informed that the Board could choose to fund the full request from the capital fund; however, the Board of Education has already completed the lottery fund application, so staff concurred with moving forward as requested on the \$570,000. The Board needs to determine how to fund the remaining \$630,000.

Commissioner Guice asked for additional clarification on the County being party to the contract and making the vendor payments and the savings that could be achieved by going this route. Mr. Griffin stated that the County is eligible for a larger percentage of reimbursement of sales taxes. The Board of Education must be agreeable to allowing the County to be a party to the contract. The Manager added that allowing the County to be a party to the contract would also eliminate duplication of work. If the School Finance staff pays the invoice, they would also have to file for the sales tax reimbursement which must come through the County's Finance office. The County Finance staff could pay the invoice and file for reimbursement thus eliminating the extra work on the School Finance staff.

Commissioner Guice inquired about the negative impacts of this method of paying the vendors. The Manager stated that based on the public comments there could be a perceived negative by having a misunderstanding of the mechanism. Having the County be a party to the contract does not change the terms of the contract. It is meant to save time and duplication of work and create bigger savings for the taxpayers. She hoped the School System would be willing to work with the County to accomplish the goal of moving the project forward.

Commissioner McCall asked for clarification that this would not take any control over the projects away from the School System. The Manager confirmed and added that it is important to achieve savings wherever possible, especially in the current construction market.

Chairman Chappell called upon Board of Education Chairwoman Tawny McCoy to comment. Ms. McCoy commented that the Board of Education has discussed this contracting method for the bond projects because of the County's ability to qualify for a larger refund of the sales tax. Either way, should the County decide to move in this direction, she felt it would be necessary for both Boards to enter into a memorandum of understanding that identifies and clarifies the roles of both parties. She was appreciative of the Commissioners and staff looking for ways to maximize the sales tax reimbursement.

Chairman Chappell called for a 10-minute recess. The Board of Commissioners reconvened at 8:08 p.m.

Chairman Chappell acknowledged that both Boards are supportive of the project. He suggested the possibility of delaying the funding decision until the next meeting to give staff time to draft a memorandum of understanding that would be agreeable to both Boards. The Manager added that the Board could approve the lottery application at this meeting to get the process started at the State level and then address the remaining items at the next meeting.

**Commissioner McCall moved to approve the lottery fund distribution application for \$570,000 to be used for the Pisgah Forest project and for the Chairman to sign the lottery application, seconded by Commissioner Guice and unanimously approved.**

**Commissioner Guice moved to table the remaining items for the next meeting, seconded by Commissioner Chapman.** Commissioner Guice stressed that the Board of Commissioners is in full support of this project but needs additional time to address the remaining funding and draft the memorandum of understanding. **The motion passed unanimously.**

REQUEST FROM TRANSYLVANIA COUNTY BOARD OF EDUCATION FOR ADDITIONAL APPROPRIATION OF FY 22 CURRENT EXPENSE/OPERATIONAL FUNDS

The Manager reiterated that with this request, staff will also update the Board on the analysis they conducted. She thanked the School System staff for answering the County staff's questions and providing additional information when requested. She turned the presentation over to Finance Director Jonathan Griffin.

Mr. Griffin reported that on February 21, 2022, the Transylvania County Board of Education adopted a revised final budget for FY 2022.

Local spending on education is driven significantly by factors set by the State's budgeting process. Base salary schedules, retirement system contributions rate, and contributions to the State Health Plan are set at the State level.

The State budget has not yet been passed, so there is significant uncertainty about the resources that are necessary to provide the County's share of the cost of public education. The County adjusted its base

appropriation for public education to \$12,852,043. Additionally, the County budgeted \$104,543 as a contingency while both agencies wait for the State budget to pass. In its revised budget resolution, the Board of Education revised its local operating budget to \$13,335,429 for FY 2022.

To fully fund this request, the Commissioners would need to take two specific actions:

- Release the \$104,543 that has already been included in the County's current budget resolution
- Appropriate general fund balance to finance the remaining \$192,437

There are three key points concerning the financial position of Transylvania County Schools to contextualize the Commissioners' decision-making on this issue. First, Transylvania County Schools' fund balance has grown significantly over the past four years. The School System's general fund balance is where it accounts for local operating expenses. This indicates that given the influx of additional State and federal funds, the School System has been less reliant on local funds to operate. Their fund balance increased from \$483,340 in FY 2018 to \$7,750,526 in FY 2021.

Secondly, the prior agenda item included a request to transfer \$630,000 from the Local Current Expense Fund. If the Board of Commissioners approved that request, then \$630,000 would not be available to bridge that gap through the remainder of FY 2022. If the Board of Commissioners rejected that request, then there would be \$630,000 to cover both the amount the County set aside as contingency and the additional supplemental request. While it may be reasonable that Transylvania County Schools use its fund balance to cover through June 30, 2022, structurally it will require some level of increase next year.

Lastly, Transylvania County Schools' average daily membership (ADM) fell below 3,300 students for the first time. This triggered eligibility for PRC 019, the State "Small County Supplemental Funding" and generated an increase of \$1,548,000 in new State revenue that neither the County nor the School System was aware of at the time of considering the local budgets. This program has a phase-out provision, which means even if Transylvania County Schools were to rise above 3,300 students next year, that revenue would slowly wind down, by 20% each year, rather than disappear entirely. However, if the ADM continues to drop, Transylvania County Schools would receive additional dollars from the State. This has taken Transylvania County Schools' State funding eligibility from \$23.3 million in FY 2021 to \$25.3 million in FY 2022.

Staff recommended the following:

- Do not authorize the release of \$104,543 in contingency, with the understanding that the County will include it in the upcoming FY 2023 budget
- Reassess during the County's FY 2023 budget the appropriate level of the increase in local current expense
- Determine whether the Commissioners would like to request Transylvania County Schools' plans for use of the small county supplement (PRC 019)
  - Pursuant to NC GS 115C-429, the Board of County Commissioners has the full authority to call for, and the Board of Education must make available to the Board, all books, records, audit reports, or other information

Mr. Griffin informed the Commissioners that to conduct the analysis, staff looked at the audit, as well as the financial statements to project spending through the end of the year. The analysis concluded that the current funding level from the County toward current expense is adequate through the end of the fiscal year, with additional funds going into the School System's fund balance. Staff agreed that the School System should have a fund balance to have operating cash going into the new fiscal year, but noted that having a \$1.7 million fund balance is rather high. There is also over \$400,000 in capital reserves, so staff

felt secure in their recommendation that there are resources that could be levied by the School System as authorized by the Board of Education.

Commissioner Guice asked if County staff have had conversations with School staff prior to making recommendations to the Board of Commissioners on their funding request. The Manager informed the Commissioners that both Finance Directors met to ensure that the County had accurate figures to provide the Board with an analysis. There have been prior conversations about the need for a fund balance for operating cash flow. The Manager was pleased to see the School System receive Small School Funding because our taxpayers have been burdened by the lack of availability of these resources to Transylvania County. The Manager stated that the staff was confident in their recommendations to the Board.

Commissioner McCall felt comfortable that the School System had adequate funding to get them to the end of the fiscal year. She expected to have further discussions with the Board of Education on their needs in the upcoming fiscal year budget planning process.

**Chairman Chappell moved to release the contingency budget (\$104,543) that has already been approved and appropriate \$192,437 from those funds that were previously going to be taken from the current expense (see previous agenda item) to finance the remaining, seconded by Commissioner Guice.** Commissioner McCall inquired about whether other budgets or departments held contingencies within the County's budget. The Manager stated the County maintains a contingency for its overall budget. Commissioner McCall asked if the contingency identified in the base appropriation for the School System was targeted until there was a need to cover certain expenses or whether it was targeted knowing that certain expenses would be covered. The Manager explained it was targeted because of the unknown expenses due to the State's not having passed its budget until well after the start of the fiscal year. The Board of Commissioners at the time wanted to ensure that there was money available if needed. Commissioner Guice commented that both the County and the School System do their best to develop a budget based on many unknowns, thus the need to set aside funds. Commissioner McCall requested to review further the need for a contingency in the upcoming budget planning process. **The motion passed 3 to 2, with Commissioners Chapman and McCall voting against.**

#### CONTRACT WITH ERC BROADBAND FOR RECIPROCAL USE OF SERVICES AND FACILITIES

Communications Director Cameron Sexton presented this item to the Board.

ERC Broadband currently provides internet access for Transylvania County at both the Datacenter and Public Safety Facility. Transylvania County and ERC Broadband have had an agreement for a point of demarcation since 2013 located at the current EMS Main Station (842 N. Broad St.). The sale of that property and the relocation of the EMS Main Station necessitates a revision to that agreement.

In the current agreement, ERC Broadband provides a 1000 Mbps internet service circuit to the Datacenter free of charge. Through a separate agreement, ERC provides a 1000 Mbps circuit to the Public Safety Facility for \$1,050 a month.

The proposed revised agreement retains the same internet service, plus an additional dedicated circuit to be installed at the Pisgah Forest Solid Waste Transfer Station at 1767 Old Hendersonville Hwy and two strands of dark fiber to interconnect the Public Safety Facility and the Datacenter for no monthly charge. This new colocation agreement allows for ERC Broadband to have two points of demarcation, one at the Datacenter and one at Public Safety, which completes a ring-style infrastructure that increases the reliability and resilience of the system.

There is a one-time charge of \$50,000 to help offset the installation and configuration of the additional infrastructure. The installation and configuration would normally cost significantly more. The value of

what ERC Broadband provides to the County every month is \$11,650. This project does not qualify for the use of 911 Funds, GREAT Grant Funds, or ARPA Funds.

Staff recommended the Board approve the execution of a 10-year agreement between ERC Broadband and Transylvania County and appropriate fund balance from the General Fund for \$50,000 to offset the installation and configuration of the additional infrastructure.

**Commissioner moved to approve signing the agreement between ERC Broadband and Transylvania County and allocate \$50,000 from the unassigned fund balance for the installation and configuration, seconded by Commissioner and unanimously approved.**

LETTER OF SUPPORT FOR LAND OF SKY REGIONAL COUNCIL'S APPLICATION FOR GRANT OF AUTHORITY TO ESTABLISH A FOREIGN TRADE ZONE IN WESTERN NORTH CAROLINA

The Manager reported that the Land of Sky Regional Council is applying for a Grant of Authority to establish a Foreign Trade Zone in Western North Carolina. The Port of Greenville-Spartanburg has agreed to provide oversight to this new zone once approval is granted by the US FTZ Board. The proposed service area includes a portion of Transylvania County. The Land of Sky must request a letter of support from each County in the proposed zone.

Foreign-trade zones are designated sites licensed by the Foreign-Trade Zones (FTZ) Board (Commerce Secretary is Chairperson) at which special customs procedures may be used. These procedures allow domestic activity involving foreign items to take place prior to formal customs entry. Duty-free treatment is accorded to items that are re-exported, and duty payment is deferred on items sold in the U.S. market, thus offsetting customs advantages available to overseas producers who compete with producers located in the United States. Subzones/usage-driven sites are approved for a specific company/use. A site that has been granted zone status may not be used for zone activity until the site or a section thereof has been separately approved for FTZ activation by local U.S. Customs and Border Protection (CBP) officials, and the zone activity remains under the supervision of CBP. FTZ sites and facilities remain within the jurisdiction of local, state, or federal governments or agencies.

The benefits to local governments in an FTZ include:

- Help facilitate and expedite international trade, a benefit of existing and future companies that may have a global presence
- Provide special customs procedures as a public service to help firms conduct international trade-related operations in competition with foreign plants
- Encourage and facilitate exports
- Help attract offshore activity and encourage retention of domestic activity
- Assist state/local economic development efforts
- Help create employment opportunities

Chairman Chappell serves on the Land of Sky Regional Council's Board and recently saw a presentation on FTZs. He pointed out that Western North Carolina has been at a disadvantage because FTZs have been more focused in the eastern part of the State, especially with so many foreign-owned companies.

**Commissioner Chapman moved to approve the letter of support and authorize the chairman to sign, seconded by Commissioner McCall.** In response to questions from Commissioners, Chairman Chappell noted that the initial application must be within a certain mile radius of the port, but with future opportunities to expand in the future once the designation is approved. Once the location of the FTZ is determined, the Land of Sky will provide an update to the Board. **The motion was unanimously approved.**

RESOLUTION IN OPPOSITION TO ENHANCED ALIGNMENT OF WORKFORCE AND ECONOMIC DEVELOPMENT

Chairman Chappell stated the Commissioners have indicated previously that they did not feel the alignment of the Workforce Development Board and Economic Development was in the best interest of the citizens of Transylvania County. This item serves as an opportunity for the Board to take formal action.

In November 2021, the NCWorks Commission, with the support of Governor Cooper, requested the Governance and System Alignment Committee conduct a study on the workforce system, specifically the arrangement of local workforce development boards, to better support economic development around the State. The Committee recommended a realignment of the existing service areas of the local workforce development boards to promote alignment with economic development activities in the State and identified eight guiding principles to support local leaders in their realignment efforts.

The study concluded that any realignment of a local workforce board area is a local decision by the designated Chief Local Elected Official. For the current term, Transylvania County holds the position of Chief Local Elected Official with Commissioner Jake Dalton appointed on its behalf.

Transylvania County opposes realignment of the Mountain Area Local Workforce Development Area because it does not reflect the labor market areas, commuting patterns, or local economic connections that are required for local workforce areas by federal law. In addition, Transylvania County and the counties of Buncombe, Henderson, and Madison Counties represent a functional economic region with Interstate 26 as the connection for inbound and outbound employment, supply chain linkages, trade/commerce, in addition to the political and regional connections that are critical to the growth and future of Transylvania County. The current alignment represents a functional economic region that promotes collaboration and regionalism.

While Commissioners felt the State would move forward with the recommendation regardless of the County's input and opposition, the Commissioners wanted to go on record to confirm their position.

**Commissioner Dalton moved to approve Resolution 17-2022 Formally Requesting the North Carolina Department of Commerce, NC Works Commission, Retain the Boundaries of the Mountain Area Local Workforce Development Area, seconded by Commissioner McCall.**

Commissioner Dalton stated that he voted against this as the current Chief Local Elected Official. To him, the State moving forward anyway shows a lack of respect for the citizens of Transylvania County and Western North Carolina, just like the economic tier designations. **The motion was unanimously approved.**

**Resolution # 17-2022**

**Formally Requesting the North Carolina Department of Commerce and NC Works Commission, Retain the Boundaries of the Mountain Area Local Workforce Development Area**

WHEREAS, In November 2021, the NCWorks Commission, with the support of Governor Roy Cooper, requested the Governance and System Alignment Committee conduct a study on the workforce system, specifically the arrangement of local workforce development boards, in an effort to better support economic development in the State of North Carolina; and

WHEREAS, Based on the evidence gathered as part of the study, the Committee recommended a realignment of the existing service areas of local workforce development boards, in order to promote alignment with economic development activities in the State, and the Committee identified eight guiding principles to support local leaders in their realignment efforts; and

WHEREAS, The Committee encouraged local leaders to review and act in accordance with these principles to develop a cohesive workforce board system that supports both local and statewide goals around workforce and economic development; and

WHEREAS, The study concluded that any realignment of a local workforce board area is a local decision by the designated Chief Local Elected Official; and

WHEREAS, The Mountain Area Local Workforce Development Area is the designated planning and administrative area to receive funds from the Workforce Innovation and Opportunity Act (WIOA) for Buncombe, Henderson, Madison, and Transylvania Counties; and

WHEREAS, The Mountain Area Workforce Development Consortium supports local and regional workforce solutions to address common issues or opportunities, coordinate state and federal program service delivery in the Mountain Area Workforce Development Area, and build strategic partnerships to improve the prosperity of the counties within the consortium; and

WHEREAS, The Mountain Area Local Workforce Development Area was designated by the North Carolina Division of Workforce Development Solutions based on factors such as common community growth patterns anchored by metropolitan and micropolitan statistical areas, shared labor pools, commuting patterns, coordinated economic development strategies, regional alignment with state and federal programs and services, and empowered to carry out programs and services that are of mutual interests to member governments within the Mountain Area Local Workforce Development Area; and

WHEREAS, The Land of Sky Regional Council of Governments serves as the fiscal agent and administrative entity for WIOA programs; and

WHEREAS, Realignment of the Mountain Area Local Workforce Development Area does not reflect the labor market areas, commuting patterns, or local economic connections that are required for local workforce areas by federal laws; and

WHEREAS, Transylvania County and the counties of Buncombe, Henderson and Madison represent a functional economic region with Interstate 26 as the connection for inbound and outbound employment, supply chain linkages, trade/commerce, in addition to political and regional connections that are critical to the growth and future development of Transylvania County; and

WHEREAS, Transylvania County, in alignment with Buncombe, Henderson and Madison Counties represent a functional economic region that promotes collaboration and regionalism; and

WHEREAS, Realignment will create greater physical distance and disconnection and will likely reduce participation by Transylvania County business leaders, government, and citizens in the workforce development board activities and services; and

WHEREAS, the Mountain Area Workforce Development Consortium, the Mountain Workforce Development Board, and the Land of Sky Regional Council of Governments work together to improve the Area's workforce infrastructure, and to provide a skilled workforce for area job seekers and employers;

NOW, THEREFORE, BE IT RESOLVED that the Transylvania County Board of Commissioners formally requests to retain its current designation, geographic boundary, and appointed entities to carry out WIOA programs and activities, and that it does not support separating these counties, merging them

into larger areas, or consolidating other Local Workforce Development Areas in the Mountain Area Workforce Development Area.

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to the Board of Commissioners in Buncombe, Henderson and Madison Counties, Transylvania County's North Carolina legislators, Secretary of the North Carolina Department of Commerce, Chair of the North Carolina Works Commission, and the Mountain Area Workforce Development Board.

Adopted this the 25<sup>th</sup> day of April 2022.

S://Jason R. Chappell, Chairman  
Transylvania County Board of Commissioners

### MANAGER'S REPORT

The Manager reported the following:

- NCACC's Legislative Goals process is set to begin in May – more information from NCACC coming soon. Commissioners should consider potential legislation or advocacy they want to see at the NC General Assembly to help counties.
- NCACC is in the process of holding its district meetings around the State. Transylvania County is in District 16. The District 16 meeting has not been scheduled yet. This year's meetings will focus on elected-to-elected networking with members of the NC General Assembly.
- County Assembly Day will be held all day on June 14 in Raleigh. More details and registration are coming soon.
- Early Voting for the Primary starts this week.
- Manager to present FY 23 Recommended Budget on May 23
  - Propose the following workshop, public hearing, and approval dates
    - Budget Workshop – Monday, June 6 and additional on Tuesday, June 7 if needed
    - Public Hearing – Monday, June 13 at 4 pm
    - Public Hearing – Monday, June 20 or 27 at 6 pm
    - Approval of Budget – Monday, June 20 or 27 at 6 pm
- The Board of Commissioners will hold a capital workshop sometime this summer
  - Capital requests have grown significantly to more than \$300 million
  - Workshop to help Commissioners focus on priorities and funding options
- The County has hired professional staff to provide a third-party review of the bond projects and that is on schedule to be available to Commissioners in mid-May
- Commissioners were reminded to inform the Manager about their suggested makeup of the Blue Ridge Community College Capital Committee
  - Blue Ridge Community College has expressed a need for a new \$30 million campus
- A special goodbye to IT Director Dean Landreth and IT Specialist Mike McKinney
  - Dean is retiring effective May 1. We wish him the best!
  - Mike has taken another position outside of Transylvania County. We also wish him the best.
- A special welcome to our new IT Director Nathanael Carver. He started his new role today. He brings the right mix of experience, vision, and desire to serve Transylvania County which will be a huge asset to our IT Department.

Lastly, the Manager showed a video from the NCACC highlighting NCACC President Frank Williams' presidential initiative called 100 Counties Prepared. The 100 Counties Prepared Task Force met in Wake County. President Williams talked about their initial meeting in the video and what they hope to

accomplish. Transylvania County Commissioner Teresa McCall serves on the 100 Counties Prepared Task Force representing Transylvania County and Western North Carolina.

This concluded the Manager's Report.

Commissioner McCall reported that the County Manager presented a phenomenal presentation to the Task Force recently on the County's response to Tropical Storm Fred. She thanked the Manager for her work because it will be instrumental in helping other counties manage through disasters. Commissioner McCall was pleased with the work of the Task Force as well.

Commissioner Guice stated that the County has many challenges and one that has been discussed and studied for a long time is the courthouse. If the Board is going to hold a capital workshop soon, he requested staff provide updated cost figures and information on whether the needs have changed, such as the number and size of the additional courtrooms. This may require reconvening the courthouse stakeholders' group. Chairman Chappell assured Commissioner Guice that the staff will be working on this to provide the information needed for the capital workshop.

### **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.*

Brian Stretcher: Mr. Stretcher is a local attorney, and he addressed the Board about the courthouse. He reminded the Board about a citizens' courthouse committee that convened for some time that can offer input and resources to the Board of Commissioners for no cost. The committee is happy to reconvene if Commissioners feel there is a need. The citizens' committee prefers that the courthouse remain downtown, and they have some interesting concepts to share.

Kristi Brown: Ms. Brown is the Clerk of Superior Court. She welcomed the opportunity to talk with Commissioners about the courthouse and offered to conduct a walk-through of the building so she can point out the deficiencies. She stated that she wants to work closely with the Board of Commissioners so that she too can represent the citizens she was elected to serve. She shared that the judicial staff is willing to do the same.

Elise Wall: Ms. Wall is a local attorney who deals with various cases. She cited the courthouse as being inadequate and shared an example from today about attorneys having conversations with their clients in the hallway for the public to overhear because there is no space in the facility for attorneys to meet with their clients and other court officials. She said this is one example of many showing how inadequate the current facility is and thus how critical it is for the Board of Commissioners to act now. Ms. Wall shared that she represents some foster parents and parents of children in DSS custody and based on her experience, she was concerned about the current caseloads the DSS staff are carrying. She wanted the Commissioners to be aware of her concerns and requested a meeting with the County Manager to discuss further.

### **COMMISSIONERS' COMMENTS**

Commissioner Chapman addressed public comments that were made at the beginning of the meeting claiming that Commissioners do not care about the community. He acknowledged that citizens voted to approve the school bond projects but now those citizens are not going to get what they voted for. He said he hears from citizens regularly who are not happy with the direction the projects are going. He shared that his grandchildren attend public school in Transylvania County, so he had a vested interest in their

education. He was concerned that the bond projects are not going to benefit the students. Commissioner Chapman noted he was on the Board when several attorneys expressed to the Commissioners that they were against the County building a new courthouse. He stated that nothing has changed in terms of the need other than the price tag has gone up. He wanted to hear from citizens whether they were willing to accept another tax increase to build a new courthouse. Commissioner Chapman pointed out that Blue Ridge Community College has requested the County fund a new \$32 million campus. The Board of Commissioners is facing over \$300 million, so the County has challenges ahead.

Commissioner Guice thanked the speakers for pointing out the needs at the courthouse. He agreed the courthouse does not have space for victims to feel safe and hallways allow for the commingling of judicial officials, inmates, victims, and others. Violent acts occur in courthouses across this State and nation regularly. He stressed that this Board, as elected officials, has the responsibility of ensuring the safety of everyone who visits or works in the courthouse. The County has conducted several studies over the years, and they all point to the same issues. He was confident the Board can find a way to address this issue through proper planning and noted that the previous Board started setting aside funding for capital needs. Commissioner Guice stated the Board also needs to address the needs of Blue Ridge Community College, otherwise, the County will miss out on planning for the future of economic development and infrastructure that will be so important for companies coming into Transylvania County.

Commissioner McCall addressed accusations made during the public comment period. She stated that Chairman Chappell did not make a promise to have the school bond projects on the agenda, but that he hoped the architectural review would be ready to present at this meeting. Another inaccurate statement was that all the Commissioners' questions were answered during the joint meeting. Since the joint meeting, the Commissioners' have forwarded many of the same questions at least twice to the School System that should have been easily answered by the architect or contractors. Commissioner McCall denied the accusation that the County has delayed the bond projects. She pointed out that the Commissioners have had serious concerns and legitimate questions that needed a response and yet during that time, the scope of the projects has changed. She felt the delay was minor considering it took the School System three years to get to a point of bidding on the projects. Commissioner McCall agreed that the schools have needs, but she everyone to stop using the kids as leverage. She pointed out that the School System has allowed the buildings to continue to deteriorate while waiting on a successful bid on the bond projects. These projects have been funded already but have not been completed. Commissioner McCall demanded transparency and answers to the Board's questions because it is the County Commission that is charged with providing the funding and the County cannot afford to waste one cent. She said each Commissioner considers the best interest of each citizen in Transylvania County when making decisions and they are committed to doing what is right for both the School System and the courthouse.

Commissioner Dalton thanked everyone for reaching out to him over the past week regarding the death of his father.

Chairman Chappell stated that the Board has had Commissioner Dalton and his family in their thoughts and prayers.

Chairman Chappell was bothered by some of the public comments made this evening. He welcomed differing opinions but took exception to being called unethical and uncaring. Comments like these are a disservice to the citizens of this community and he felt that the speaker should have known better as a former elected official.

**Chairman Chappell moved to enter into closed session per N.C.G.S. 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 and per N.C.G.S. 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 or other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease, following a 10-minute recess, seconded by Commissioner McCall and unanimously carried.**

#### **CLOSED SESSION**

Per N.C.G.S. 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 and per N.C.G.S. 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 or other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease, a closed session was entered into at 9:50 p.m. Present were Chairman Chappell, Commissioners Chapman, Dalton, Guice and McCall, County Manager Jaime Laughter, County Attorney Patrick Scott, retired NC Supreme Court Justice Robert Hunter (1<sup>st</sup> closed session only) and Clerk to the Board Trisha Hogan.

The Commissioners consulted with the County Attorney and staff on a privileged matter and directed staff on how to proceed. In a second closed session, the Commissioners consulted with the County Attorney and discussed the potential acquisition of real property, then instructed staff on how to proceed.

**Chairman Chappell moved to leave the closed session, seconded by Commissioner McCall and unanimously approved.**

#### **OPEN SESSION**

**Chairman 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 Dalton and unanimously approved.**

#### **ADJOURNMENT**

There being no further business to come before the Board, **Chairman Chappell moved to adjourn the meeting at 10:57 p.m., seconded by Commissioner McCall and unanimously carried.**

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Jason R. Chappell, Chairman  
Transylvania County Board of Commissioners

ATTEST:

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Trisha M. Hogan, Clerk to the Board