

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
October 14, 2019 – REGULAR MEETING

The Board of Commissioners of Transylvania County met in regular session on Monday, October 14, 2019 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, Vice-Chairman David Guice, Chairman Mike Hawkins, and Page Lemel. Also present were County Manager Jaime Laughter, County Attorney Misti Bass and Clerk to the Board Trisha Hogan.

Media: *The Transylvania Times* – Derek McKissock

There were approximately 25 people in the audience.

CALL TO ORDER

Chairman Mike Hawkins presiding declared a quorum was present and called the meeting to order at 4:03 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

Larry Chapman: Mr. Chapman read from a prepared statement. He announced he intends to file to run for the Transylvania County Board of Commissioners in the 2020 General Election. Although he decided not to seek reelection in 2018 to the Board of Commissioners, he felt it was time to dedicate himself once again in service to the citizens of Transylvania County. He stated there are many important issues facing the County that require the dedication, time, and professional leadership of County Commissioners. Mr. Chapman intends to contact individual Commissioners and other government leaders, as well as gather input from citizens, over the next few months to seek their perspective on issues facing the County and their priorities. He thanked the Board of Commissioners for all they do for the citizens of Transylvania County. Should he be elected, he assured the Board he will work hard to represent citizens and respond to their needs as best he can to ensure Transylvania County is a prosperous and desirable county in which to live.

AGENDA MODIFICATIONS

There were no agenda modifications.

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

CONSENT AGENDA

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

The following items were approved:

MINUTES

The Board of Commissioners met in a regular meeting on March 25, 2019 and following met in closed session in which the minutes were sealed. The Board of Commissioners met in a regular meeting on April 9, 2019 and September 23, 2019. Commissioners approved the minutes as submitted.

REFUND OF OCCUPANCY TAXES

A taxpayer reported to the Tax Office that they mistakenly paid occupancy taxes for several months in FY 2019. The taxpayer filed with the Finance and Tax offices the occupancy tax return form that they had made sales of accommodations during that period. However, after discussions with the Tax Administration office, they determined they made those payments in error. They had executed a long-term lease with a tenant during that period, and as the lease lasted longer than 30 days, it would not have been taxable under statute even if the structure was a short-term rental for most of the year.

Tax Administration staff requested certain documents from the taxpayer to verify their claims and to determine whether a refund is justified or allowable under statute. A summary of payments received that were paid to the Transylvania County Tourism Development Authority were made available to the Board of Commissioners for review. As this information covers the income and receipts of a taxpayer, NC General Statute § 153A-148.1 restricts the release of this information to any individuals except those engaged in the course of county business, so it is permissible for staff to discuss it with the governing board, but not for it to be discussed in a public meeting. To discuss the nature of this request not covered by the documents provided at the meeting, the Board must enter closed session. The applicable statutory citation for a closed session to protect confidential or privileged information is NC General Statute § 143-318.11(a)(1). The Board authorized staff to refund the occupancy taxes paid by the taxpayer in error without the need to discuss further in closed session.

FRENCH BROAD RIVER ACCESS STUDY

Many communities struggle with the underutilization of their natural resources. These resources can be significant economic drivers for communities. The NC Growth Project aims to give communities guidelines and best practices to ensure that their valuable resources are bringing positive economic impact to their communities.

Transylvania County partnered with NC Growth to conduct the French Broad River Access Study to look at the potential economic impact of having a blue way asset in the community, assess existing infrastructure and make recommendations on how to best improve upon the existing network. This included interviews with stakeholders, a literary review, preparation of the report and preparation of a survey tool that could be deployed by the County to get more county-specific information.

NC Growth analyst Rachel Taylor presented her draft report and findings at the August 26 Board of Commissioners' meeting. Commissioners adopted the final French Broad River Access Study and instructed staff to upload the document to the County website once the document's final design is complete.

PRESENTATIONS/RECOGNITIONS

MORE POWERFUL NC OPIOID AWARENESS CAMPAIGN

Community Partnerships/Outreach Coordinator Holly Jones with the NC Department of Justice presented information on North Carolina's statewide campaign on how counties can get involved with combatting the opioid crisis. This is a summary of her presentation:

The opioid crisis is impacting the entire State. In North Carolina, overdoses have eclipsed vehicle crashes as the number one cause of accidental deaths. Every day across the State, there is an increase in unintentional opioid deaths and the number of deaths grows each year. Even more are hospitalized or show up to emergency rooms. Opioids do not discriminate based on age, race, socio-economic status, political affiliation, etc. and they leave a wake of death and destruction in their path. It will take involvement from everyone to combat the problem.

The opioid issue is a top priority for the Department of Justice and Attorney General. The Department has approached this issue in a three-pronged manner: prevention, treatment, and enforcement.

In 2017, the Department helped draft important legislation that received bipartisan support called the STOP Act. The STOP Act did several important things: 1) required prescribers to check a database before making a prescription and update it based on any new prescriptions written to deal with the issue of doctor shopping; 2) set expiration dates for prescriptions (5 days for an initial prescription for acute pain and up to 7 days for a post-op); and 3) transitioned from pad prescriptions to e-prescriptions to avoid forgeries of prescriptions. The idea behind the STOP Act was to stop addiction before it started.

Ms. Jones shared there is a great online resource called the NC Opioid dashboard which houses different pieces of data collected from each county and is updated quarterly. The data collection has begun to indicate certain trends. In Transylvania County, for the quarter the STOP Act was enacted, compared to the last quarter in which data was submitted, the number of pills prescribed has decreased by 50,000 pills. That is 50,000 pills not in circulation and getting into the wrong hands. Another positive indicator for Transylvania County is the number of incidents in which multiple prescriptions were given out has decreased from 35 to 15 per quarter.

Other legislation revolved around enforcement. The Department convened law enforcement specialists across the State to determine the resources they need on the ground to better do their jobs. From their input, the Department enacted two other pieces of legislation: the Synthetic Opioid Act and the HOPE Act.

The More Powerful NC Campaign came about when Attorney General Stein crossed the State conducting roundtables to understand the issues communities are facing in terms of the opioid crisis. The roundtable meetings have drawn in law enforcement, healthcare providers, citizens, teachers, parents, etc. The themes that came from those meetings were there is a wide range of awareness about opioids but little guidance on how to become involved and be part of the solution.

The More Powerful NC Campaign is a public awareness campaign to educate the public on the opioid issue and give citizens and organizations ways to engage in their communities and be part of the solution. The Campaign has attracted partners at the State government level and in the private sector. It is very much a media campaign with messaging through ads, billboards, and radio spots.

An important piece of the Campaign is the website. The Get Help page provides resources for those needing treatment for opioid addiction. The Get Involved page contains information on how people can get involved, such as pill take-back efforts. It contains materials and ready-made resources that can be printed for posting. There are also toolkits available that target educators, faith communities, advocates, etc. The final tab is called Get the Facts and it helps people understand more about what opioids are and provides information about pain and addiction. The key messages throughout the Campaign are related to the proper disposal of unneeded drugs, conversations with healthcare providers about alternatives for pain management, and encouraging people to share issues with their family members.

Citizens and organizations can get involved by taking a pledge to become part of the solution. The NC Association of County Commissioners is a partner in this effort, and Ms. Jones invited Transylvania County to be a partner at no cost. It would require the approval of a resolution by the Board of Commissioners. Ms. Jones also noted the ability for counties and organizations to link to the More Powerful NC website to help spread the word.

Ms. Jones reported that the NC Department of Justice is also focusing on issues around pretrial release. They will be convening counties to determine how best to partner and use financial resources to do best by our citizens in the criminal justice system. They intend to hold a regional summit and will invite Transylvania County to be part of the discussion.

Commissioner Lemel asked if the court system had signed on as a partner. Ms. Jones reported that the Administrative Office of the Courts has not formally signed onto the More Powerful NC campaign, but they are very engaged with pretrial release issues. The Department should continue pursuing them as a partner in the More Powerful NC campaign.

Commissioner Lemel stated that in her service on the Vaya Health Board of Directors, substance use disorder continues to be a major subject of conversation. She said she recently learned about the Restorative Justice Center and how other counties in Western North Carolina are using their resources to partner in the creation of a drug court. She asked how Transylvania County could get assistance with creating a drug court that might also assist with pretrial issues. Ms. Jones stated that drug courts have become a popular subject in WNC as substance abuse and criminal justice issues are intersecting. She agreed to provide Commissioners with connections to some of the communities that have started drug courts. Ms. Jones pointed out the creation of drug courts is a local or regional decision (Chief Judge) and is a smart idea when appropriate. Many counties have contributed to the financial component if they are able.

Commissioner Guice noted there are many components related to the creation of drug courts, including major involvement from the court system and possible assistance from the NC Legislature. He shared that Transylvania County is one of 10 counties selected to participate on an opioid task force, working closely with the UNC School of Government and other agencies. There is also a newly formed reentry council that is addressing reentry issues for the jail population, prison population and those under community supervision who need support. He commended the Attorney General and Ms. Jones for their efforts. He said Transylvania County looks forward to partnering with others to determine how to address issues at the local level, especially those underlying issues like housing and mental health, to make long-lasting changes in the community.

Ms. Jones informed Commissioners that the Dogwood Health Foundation has set aside funds to help with the opioid crisis and could be a resource to the County.

Commissioner Cathey shared that in his experience as an attorney working in the court system, many cases involve more than just opioids as the drug of choice. Many cases generally involve what he called a “cocktail of drugs.” He asked if there is a multi-dimensional effort to address this issue. Ms. Jones said many of their approaches will have broader appeal and they will work closely to determine where there are overlaps.

This concluded the presentation and discussion. Chairman Hawkins thanked Ms. Jones for her presentation.

TRANSYLVANIA COUNTY TOURISM DEVELOPMENT AUTHORITY – FY 2019 ANNUAL REPORT

Clark Lovelace, Executive Director of the Transylvania County Tourism Development Authority (TCTDA) presented the organization's FY 2019 Annual Report to the Board of Commissioners. A detailed written report was included in the Board's agenda packet. This is a summary of the presentation:

TCTDA Membership

- Seven members
 - Two accommodations owners/operators
 - Two interested individuals in tourism, specifically not accommodations owners/operators
 - One Chamber of Commerce appointee
 - One City appointee
 - One County appointee
 - Grant Bullard is current Chair

Impact

- \$100 million+ in revenue attributed to tourism in Transylvania County
- 870 jobs
- Every citizen pays \$250 less in taxes due to impact of tourism

Accommodations – Occupancy Tax

- In FY 2019, more than doubled from FY 2012 figures; from just under \$9 million to over \$18 million annually
- Increase of \$922,000 over previous year
 - Hotel/motel/inn occupancy up
 - Average daily rate (rate paid on daily basis) went up
 - Collections coming in from Airbnb went up dramatically
- Projecting \$1 million increase for the coming year

Seasonality

- Much of the work of TCTDA has been to drive business during the shoulder and winter seasons; their work has paid off
- Business climate dramatically different 10 years ago than now

Marketing and Advertising

- Core function of TCTDA function
- One year ago – unveiled new brand, new website (user friendly, integrated with social media), new logo
- Two blog posts direct people to the website: *Top 10 Waterfalls* and *9 Iconic Brevard Experiences*
- This past year, TCTDA reached more than twice as many individuals with impressions than in years' past due to creative marketing and advertising – print, digital, television, radio, collateral, etc.
- Distributed 115,000 copies of the Adventure Guide
- E-blasts sent out twice/month with broad calendar of events and another specific to one topic or region of the County

Visitors Center

- Less foot traffic as web traffic increases
- Foot traffic peaked at approximately \$19,000 a couple of years ago
- People getting information in different ways

- Focused on ways to create a destination

Public Relations

- Important aspect of work that can pay off at any time and over a period of time
 - Market Connections' relationship with Elizabeth Hudson, Chief Editor of *Our State Magazine* has resulted in the magazine has covered multiple stories about Transylvania County

Sustainability

- At a retreat three years ago, Board of Directors identified sustainability as a value with a need to focus more on as an organization
- Several initiatives resulted:
 - Waterfall Safety Campaign – posters, handouts, public service announcement that plays at the Visitors Center
 - Cantrell Creek Project – initiative led by Pisgah Conservancy; relocation work where creek and trail had become one
 - Video series about trail courtesy

Other Ways TCTDA Operates and Impacts the Community

- Tourism Grant Program
 - This past year awarded 16 recipients to approximately \$25,000 (\$3,000 maximum)
- Events and initiatives
 - Old Time Street Dances
 - Assault on the Carolinas
- Special Grants that align with TCTDA mission
 - City of Brevard hike path
 - Cycle NC
- Offer several incentives and programs for tourism partners for support
 - Buy ad space because get better deal when buying in bulk; ads specifically to drive business during slower times of year
 - Offer advertising in the Adventure Guide
 - Allow sponsorships in the Get Out Guides
 - Spotlights in the e-blasts throughout the year
 - Share photography with local partners for certain purposes
 - List events on website calendar

Strategic Plan

- Focusing on implementation
- Serves as guide for ensuring that the Transylvania County of five and 10 years from now is the Transylvania County they want to see, especially as it relates to tourism

Special Project

- Company conducted study using mobile data analytics
- Study to gauge where visitors came from and where they traveled to
- Study focused on Dupont State Recreational Forest, downtown Brevard, and the Pisgah National Forest
- Example of information gleaned from study: 34% of visitors to the Pisgah National Forest also visited downtown Brevard at some point during their visit

Looking Forward

- Unveiled new campaign – The Heart of Adventure – designed to claim or reclaim our beautiful natural assets; our neighbors are promoting various aspects of our County to visitors; important to remind visitors, when thinking about where to stay, that Transylvania County is in the “heart of their adventure”
- New relationship with Media One; very focused digital media program with measurable outcomes
- Adding a marketing and communications specialist to support some of their marketing and special projects as part of their strategic plan
- Focus will continue with sustainability efforts
 - Leave It Better Campaign; version of Leave No Trace concept

This concluded Mr. Lovelace’ presentation. Chairman Hawkins called for comments and questions from Commissioners.

Commissioner Chappell appreciated the TCTDA initiative to gather mobile data analytics. He felt it was important to have this type of data because it can determine where their focus should be. He looked forward to seeing how they use the data in the future to move their strategic plan forward.

Commissioner Lemel inquired about the timeframe on the TCTDA’s request for expanding their membership. Mr. Lovelace informed the Board that the TCTDA intends to provide a recommendation on two positions that will become open at the end of the year. The TCTDA would prefer the Board act on whether to increase the membership during that timeframe, if possible. The purpose of adding two members is to help with the implementation of their strategic plan.

Commissioner Guice was interested in learning further about the increase in Airbnb occupancy tax collections. He was concerned about the significance of the increase and how the short-term rental market is impacting available housing in the community. Mr. Lovelace stated part of the challenge in dealing with Airbnb is the lack of detailed information. About three years ago, Airbnb began collecting occupancy taxes from their short-term rentals and paid lump payments to counties in North Carolina. Prior to that, collections from Airbnb short-term rentals only occurred if the owner was aware of the requirement to collect and pay occupancy taxes. For this reason, the TCTDA can only measure the growth based on the past three-year period. Unfortunately, there is no accurate listing of the number of short-term rentals in the community. Mr. Lovelace reported that Transylvania County was ranked in the top 10 counties in North Carolina for revenue from Airbnb rentals. Transylvania County does not rank in the top 10 in population in North Carolina which gives an indication of the number of short-term rentals per capita.

Commissioner Guice pointed out the growth in hotels/motels/inn was up only 3.2%, yet construction on a new hotel is ongoing and there is talk of another coming here as well. Mr. Lovelace stated it is important to understand our neighbors, like Buncombe County, where supply and demand are directly related. It is also important to note that Transylvania County has not had much growth in supply after removing the short-term rental element. Traditional accommodations will drive some of their own demand and will compete with hotels near the airport. He pointed out that people normally book hotels near where they intend to visit.

Chairman Hawkins acknowledged that the TCTDA deals with issues that are interrelated with broader policy issues, like housing issues and Airbnb. He noted that their strategic plan is ambitious, but it has transitioned from a destination marketing organization to a destination management organization. Their role has become much broader than just attracting people to Transylvania County. They are tackling

sustainability and infrastructure issues. He felt that some of the issues, like short-term rental, may be addressed at the legislative level in the next few years because Transylvania County is not the only community impacted. Chairman Hawkins also commented that the mobile data analytics study was very interesting to him and he also looked forward to seeing how the data is used in the future.

Commissioners thanked Mr. Lovelace for his report. The presentation proves how much work they are doing, and Commissioners did not want it left unsaid how much they appreciate it. Mr. Lovelace was appreciative of the Board's comments and the County's support.

OLD BUSINESS

PURCHASE OF PROPERTY FOR COUNTY PARK AND ACCEPTANCE OF PARKS AND RECREATION TRUST FUND GRANT

In the fall of 2018, the Board of Commissioners requested a contract extension with Brevard College for the purchase of +/- 55 acres of property off Gallimore Road, known as the old airport property. The County assumed the contract from the Transylvania Economic Alliance. The Board of Commissioners also instructed staff to work with Conserving Carolina to apply for a Parks and Recreation Trust Fund (PARTF) grant to help fund the purchase.

The Board of Commissioners has set aside a portion of the two cent capital improvements tax increase annually since FY 16 for parks and recreation capital improvements. There are available funds in reserve for the full transaction costs to acquire the property. There is approximately \$1.1 million in capital reserves for parks and recreation purposes.

The Board of Commissioners has adopted several plans indicating the need for additional land for parks and recreation and supporting the expansion of County operated parks and recreation opportunities. These include:

1. Parks and Recreation Master Plan
 - a. Adopted in 2017
 - b. Recommends land acquisition as a priority for meeting the needs identified by the public as part of the Master Plan development
2. Transylvania County Strategic Plan
 - a. Adopted in 2016
 - b. Identifies several strategies that align with continuing to improve access to parks and recreation facilities
 - i. Goal 1, Strategy 1B: Plan, advocate and provide for infrastructure to support economic development and to make the community a desirable place to live and work.
 - ii. Goal 1, Strategy 1C: Protect the community sense of place by balancing growth and maintaining high levels of community social infrastructure like parks, quality education, tourism, etc.

In August, the PARTF Board approved Transylvania County's application for grant funds to purchase the property in the amount of \$235,000. The PARTF grant is a 50/50 match grant and would help cover the purchase along with additional expenses associated with the transaction. The contract extension for due diligence and property disposition expires October 31.

If the Board of Commissioners approved the purchase, the financial impact to the County would be \$235,000 from the parks and recreation capital improvements reserve fund. Staff sought direction from Commissioners on the following:

- Notification to the property owner regarding the County's intent to purchase
- Notification to the PARTF Board on the acceptance of the grant funds recommended
- If approved, direct staff to work with the real estate attorney to close on the property by the deadline, including the Manager being designated to sign all paperwork on behalf of the County for the purchase and grant award transactions

Commissioner Lemel moved to direct staff to work with a real estate attorney to close on the property by the deadline and designating the Manager to sign all paperwork, including the PARTF documents to accept the grant award, seconded by Commissioner Guice. Commissioner Chappell stated he has been concerned about this project since it was first presented to the Board due to ongoing expenses to maintain the property, lack of a plan for use of the property, and its propensity to flood frequently, sometimes heavily. If the Board approves the purchase, he encouraged further study on how to recoup some of the costs. While he understood other Commissioners' reasons for wanting to purchase the property, he felt there should be a higher standard applied when considering the use of taxpayer dollars. Commissioner Lemel stated the property could have similar potential to Highland Lake Park in Flat Rock. Despite the property's tendency to flood, she felt it would provide opportunities for river access and walking trails for the citizens. The property's location being close to downtown Brevard and nestled between the Boys and Girls Club and two schools provided an opportunity she felt the County could not afford to pass up. Commissioner Guice concurred with Commissioner Lemel's comments. He pointed out the purchase would fit well with the recommendations in the French Broad River Access Study to provide additional river access to the public. It could also provide opportunities for those who cannot access typical parks and recreation amenities. He felt that the Board should give thoughtful consideration to the park's development due to flooding and the potential for excessive clean-up costs. Otherwise, Commissioner Guice was supportive of the purchase. He reminded the public that the County has been fortunate over the years to receive PARTF grant funds that aided in the purchase of property for public use for parks and recreation purposes. Commissioner Guice also commended the previous Board of Commissioners for taking a progressive approach to planning for parks and recreation by committing funds toward the purpose. Chairman Hawkins pointed out that Commissioner Chappell's concerns are on point regarding the functional issues with the property; thus, it will be incumbent on the Board of Commissioners to ensure the property is used smartly. With that said, he agreed with Commissioners Guice and Lemel that the appeal to purchase the property is because of the river access. He envisioned a future blue way system in which this property served as its hub. To him, this potential alone made the property worth \$250,000. Chairman Hawkins felt the purchase was worth the capital investment. **The motion passed 4 to 1 with Commissioner Chappell voting against.**

NEW 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 the bond projects slated to be completed at Brevard High School, Rosman Middle School and Rosman High School, as well as the architectural contracts for each site.

The architectural contract for Brevard High School totals \$2,266,047 and includes a provision to adjust the fee to 6% of the final cost of the project. In the event the project construction cost exceeds 2.5% of the estimated projected cost of \$37,767,455 (not including contingency) due to owner changes or changes required by an outside party (such as a building inspector), the architect will receive 3% of the additional cost in fees. Any errors or omissions attributed to the architect may apply an offset. If the project costs 10% or more over the projection, the architect will receive 6% of the overage in fees.

The architectural contract for Rosman Middle/High Schools totals \$1,346,246. A \$160,000 credit applied for programming work already performed by the architect brings the total to \$1,186,246. The same provisions apply as in the Brevard High School architectural contract. The architect's estimated project cost is \$22,437,435.

The CMAR contract covers all the projects and includes fees for preconstruction and procurement at \$425,000 and an overall fee of 3.75% of the cost of construction.

Once the contracts are approved, the architect and CMAR will work together to complete the design and establish construction estimates. The agreement between the Board of Education and Board of Commissioners requires the total cost to remain within the \$68 million approved in the bond referendum which are the working budget figures that are included in the contracts. However, when the CMAR provides the GMP, or costs for construction, the \$68 million figure could be different at that juncture. That fact does not impact the Memorandum of Understanding between the two Boards.

The Board of Commissioners is required by statute to approve these contracts. John Kubis, Attorney with Teague and Campbell, has reviewed the contracts and their comments are summarized below. Additional review and mark-up of the contracts is expected by the County Manager soon.

County Attorney comments:

- Overall, the contracts are favorable to the owner; that is good
- Need full exhibits/attachments for review before finalizing agreement, but agrees with what has been submitted thus far
- CMAR contract requires the site to be ready; if questions remain on road closure, additional property purchase or soils issues, then that may not be true; may be challenging to address those issues with a contingency of \$1.2 million
- Additional comments forthcoming on contract language (i.e. Owner Responsibilities should say Owner Rights and Responsibilities)
- Additional review of Memorandum of Understanding between Board of Commissioners and Board of Education; terms should be articulated for statutory compliance and be clear to all parties involved; roles and responsibilities laid out in the MOU should be added to the contract (For example, the MOU addresses the sales tax documentation. The County is the entity that would apply for the sales tax reimbursement. Thus, the contracts with the CMAR and architect should be clear about the expectation for required documentation to receive the reimbursements.)

The Manager asked the Board to consider any additional questions they may have for the County Attorney and then authorize him to work with the Board of Education's Attorney to finalize the language and complete the contract negotiations. The contracts should then be brought back to the Board of Commissioners for approval.

Chairman Hawkins recognized members of the Board of Education and School Administration staff in attendance. He called for questions and comments from Commissioners.

Commissioner Lemel reemphasized the need to address the parameters of the MOU within the contracts. She asked if Mr. Kubis intends to draft a proposal for the Board to consider. Mr. Kubis responded that the review and inclusion of the MOU into the contracts would be a collaborative effort with the Board of Education's Attorney.

Chairman Hawkins asked Mr. Kubis to elaborate on the contingency component and the site readiness aspect of the project. Mr. Kubis stated that the CMAR contract has a built-in provision to allow for a

“slush fund” as a catchall for when things go wrong during a construction project. It is typical that not all goes perfectly in a construction project. The contingency fund is set up to deal with those issues. The fund would contain approximately \$1.4 million.

Chairman Hawkins pointed out the “AR” in CMAR stands for at-risk. He asked what they would be at-risk for if there is a contingency fund available. Mr. Kubis stated that the CMAR is at risk for not getting the work done right. The general contractor oversees and implements the terms of the architect. They are required to review the work of their subcontractors. The fund is in place to address any deficiencies that arise. The Manager pointed out one of the issues that often arises in construction projects in Transylvania County is bad soils. Typically, the owner ensures soil testing is completed and reports are provided to the architect for review for appropriate design decisions. In this case, the reports would also be provided to the CMAR. If there were deficiencies in the soils not disclosed or found prior to construction, the contingency would not be sufficient to cover the cost of soil remediation. To reduce liability, it is important to ensure the site is ready to build on.

Commissioner Lemel asked for clarification on who would be contracting with whom. Mr. Kubis reported that with this type of contract the architect is brought on board first. The architect will then identify a contractor and shift the bulk of the burden to the contractor. Typically, most issues arise during construction. If the plans and specs are architect, the CMAR document would be where there might be issues that need to be addressed. Regarding the sufficiency of the site, Mr. Kubis stated it is important to note that within the CMAR contract there is very favorable language to the County. This fact puts an initial burden on the contractor to identify and affirm that the site is ready and capable of being constructed upon. There is also an ongoing obligation on the contractor at all points in time throughout the construction to likewise ensure that the site continues to be capable to be built upon as anticipated by the architect. When the time comes for breaking ground, the site should be ready. If it is not, then there are different methods of recourse.

Commissioner Guice asked if the Rosman site is ready for construction. Chairman Hawkins and Commissioner Chappell serve on a school bond construction committee. Chairman Hawkins pointed out the MOU includes a provision that the committee shall meet monthly, but it has yet to meet. Thus, he did not have any information to share except that his understanding is the School System is performing the due diligence on the site.

Commissioner Guice was concerned about the Rosman construction projects and inquired about how to move forward when there are so many unanswered questions related to the location of the entrance and the possibility of requiring a street closure.

Commissioner Cathey asked who is responsible for providing water table studies. Mr. Kubis stated the contract indicates that responsibility lies with the CMAR team.

Mr. Kubis also noted that once a contract is ready to be executed, in theory they should be affirming that the site is ready.

Transylvania County Schools Finance Officer Norris Barger reported that geotechnical engineers have met on multiple occasions with the CMAR and architect and have a plan to conduct soil boring and testing in late October or early November. In response to Commissioner Guice, the School System has two options available for the Rosman design. The results of the soil testing will help decide the more appropriate option.

In response to Commissioner Lemel, Mr. Norris stated the soil testing contract is separate from the construction contracts. The School System is managing this contract themselves, along with the contracts

for the geotechnical surveys and design, hazardous materials design, plan development, furniture and equipment purchases, building access control systems, technology, etc. The money to pay for these contract services is built into the \$68 million bond total.

Commissioner Chappell inquired about the timeframe for receiving reports on the soil borings. Mr. Barger reported the results should be available in four to six weeks.

To clarify action needed by the Board, Mr. Kubis stated that the draft contracts are agreeable. He has outlined some additional language and clearly identified the rights and responsibilities. He intends to send the drafts to the Board and Manager for review. If there are other specific concerns, he will address those. It is important that both sides are as close as possible to agreeing on the terms and of the site conditions before executing the contracts. The remedies for correcting any sort of deficiencies are much broader before the contract is signed than after the contract is signed. If there are issues that arise after the execution of the contract, there could be a possibility of exceeding the contingency, thus forcing the County to find other ways to address the liability.

Commissioner Chappell asked if it would be wise to include the hydrology study and soil boring samples as part of the contract. The Manager advised this would be an appropriate step to take. Mr. Kubis agreed and recommended it. The Manager pointed out the School System is managing the contract for soil testing. She recommended waiting to sign the contracts until the study reports are available. Mr. Kubis noted there is a continuing obligation of the CMAR team to ensure that nothing changes with the site as construction moves forward.

Commissioner Guice was concerned about delaying the process. He also wanted to ensure the County is doing what is necessary to reduce liability.

Chairman Hawkins emphasized, based on the County's experience, that it extremely important to ensure there is certainty over the site readiness issues. He also stressed there is a time pressure for approval of these contracts at a meeting in the very near future. The Manager responded that staff would present at a future meeting the revised contracts with the soils testing results so there is no question that all parties are aware of the soils conditions upon execution of the contract. In addition, the MOU will be incorporated into the contract. The goal is to ensure the owners (Board of Commissioners and Board of Education) are protected and there are no conflicts with the contractors.

It was the consensus of the Board to direct staff to work with the attorneys and School System staff to finalize the contracts and keep Commissioners apprised of the progress.

Commissioner Lemel reminded Commissioners that the MOU established a school bond construction committee and she asked that this provision of the MOU move forward so that the Board can stay informed. Mr. Norris shared there is not a lot of information to report at this point. More work will commence once the contracts are signed.

MEDICAID TRANSFORMATION IMPACTS – EMS SERVICES

Finance Director Jonathan Griffin presented this item in reference to upcoming changes to North Carolina's Medicaid Program that will impact Emergency Medical Services and to provide the Board an opportunity to discuss and provide feedback to staff about how to proceed.

Background on "Medicaid Transformation"

In 2015, the General Assembly passed legislation to begin an overhaul of the State of North Carolina's delivery system for health coverage services provided to low income and disabled individuals under the umbrella of the federal Medicaid Program. This bill began moving North Carolina's Medicaid program

away from the traditional “fee for service” model where health services providers simply provide services and document those services for NCDHHS which would pay them a fee for the service. Under this model, the State manages and absorbs the expenditures. The intention of this law is to change that dynamic by moving the administration of Medicaid from the State government into the private sector.

This new model, called “managed care”, shifts a new middle actor between the State Government and the Medicaid recipient. These actors are termed “PHP” (a prepaid health plan) and they will operate regionally and statewide. The prepaid health plan companies will receive an allotment of Medicaid funding for each Medicaid participant that enrolls in their plan, and they will pay those out to health services providers.

This changes the structure by placing this new middle actor in the position of absorbing the insurance risk (i.e. the chance that the cost will go over budget) and the PHP is responsible for steering participants toward services most likely to improve their health. In short, the spirit of transformation is that these new private companies will have a powerful incentive to keep costs down by having limited resources and a mandate to focus on the best outcomes.

Under managed care Medicaid participants will be sorted into the concepts of a standard plan for most Medicaid participants and tailored plans for individuals with chronic, persistent mental illnesses. For the Medicaid participant, these plans would replace the background architecture of how Medicaid works by beginning to look and feel like a private healthcare plan. In all, NCDHHS has estimated that 1.6 million North Carolinians will transition to “standard plans.”

How does this impact Emergency Medical Services?

First, on average 31% of trips each year by the EMS department are provided to a Medicaid recipient (either a Medicaid-only recipient or a combination Medicare/Medicaid participant). About 13-14% of those trips are for Medicaid-only participants, so it is safe to assume that this will impact a large segment of the EMS billings.

Current State of Emergency Medical Services Billing

Currently, the Board of Commissioners sets a schedule of fees on an annual basis for EMS services (with fees set at the reimbursable rates for Medicare/Medicaid and the other rates for private insurance being set at what the market will allow). EMS paramedics provide those services, complete a set of forms that log the type and additional details of the services and share that information to the EMS Billing Specialist in the Finance Department.

The EMS Billing Specialist uses the forms to generate a bill to the person who received EMS services. EMS billing can, depending on circumstances, have different levels of complexity. Billing for Medicaid currently involves keying in certain details about the call to the NC Tracks system, and then the County gets paid the following week. Billing for Medicare, Medicare Advantage and private health insurance plans are more complex and time-consuming. Currently, the amount paid by NCDHHS for a single Medicaid ambulance call is roughly \$70 per trip and is paid out a week later.

A second component to the workload for EMS and Medicaid billing is that Medicaid program participation also requires year-end reconciliations to be performed by the provider. This is called the “Settlement Report” and it reconciles call types, call volume and a full picture of the expenditures related to the EMS program on an annual basis. The NCACC offers a voluntary consulting role and helps coordinate with NCDHHS the filing of these reports. The receipt and approval of this report by NCDHHS triggers a large lump sum payment to the County.

What is next?

At this point, staff anticipates that Medicaid Managed Care will increase the workload on Finance staff. There are at least two different ways in which Finance will have increased workload as the result of this change.

1. Billing for Medicaid will be more complex, and more time-consuming on the front end and will have a longer payment period - up from seven days to as many as 45 before receiving payment
2. Managed care will change the frequency of the reconciliation and reporting of Medicaid-funded ambulance trips, both emergency and non-emergency related. The year-end report will remain in effect, but now the Finance Department will have to make payments to third parties on a quarterly basis. These new quarterly reports will be based on utilization of ambulance services. Importantly, under managed care, the cost settlement report mechanism will pay out less at year end – so a smoother cash flow over the course of a year, but more work necessary to sustain it, in theory.

What staff cannot anticipate at this time is how feasible it will be for Finance to absorb the increased workload, which is why the Board is being briefed on the challenges and opportunities available currently at this time rather than in March 2020.

What are the options?

Over the longer period, with call volumes increasing across the board for EMS services, the County will reach a crossroads eventually about how to address the future of this function. Medicaid Transformation offers an opportunity for the County to assess the current and future states of how to manage the revenues of Emergency Medical Services.

Having a single dedicated individual responsible for collecting \$1.2 million in revenues annually (up from \$950,000 in FY2010) is likely not advisable or sustainable forever, particularly if that single activity has consumed nearly the entirety of their job description and work hours. Medicaid Transformation is an opportunity to rethink this arrangement and whether it is time to revise how Transylvania County manages these services.

Options for consideration include:

- Outsourcing EMS billing, which the County has explored in prior years.
 - Contracting with an outside agency to provide billing services; outside agency does not collect
 - Expect to lose 6% of revenues to a contractor for their services, offset by the cost of certain expenses being cut due to a reduction in responsibilities
 - Adds second layer of review of EMS operations
- Adding additional staff in the Finance office to split these duties among multiple positions
 - Cost would be approximately \$52,000
 - Maintains the County's full control over its EMS billing operations which is marginally cheaper than outsourcing at the lower end of revenue estimates
 - Splitting EMS billing functional duties would allow for some Finance duties to be separated and redistributed among existing staff.
- Do nothing and leave EMS billing operations at the current staffing level
 - Keeping EMS billing in-house, even as the workload increased, has had the effect of understaffing Finance relative to offices in similar sized agencies

The Finance Director provided a cost analysis of the different options for informational purposes. He estimated that outsourcing EMS billing would pay for itself if revenues improved by about 4.5 to 5%,

while adding additional finance staff would pay for itself if revenues improved by about 7.5 to 8%. The breakeven points are different because outsourcing the function allows the County to cut approximately \$10,000 it spends on medical billing software, postage and auditing its billing practices.

Mr. Griffin asked for feedback on the information and options he provided. For the purpose of this meeting, the presentation was for informational purposes only with the goal of having Commissioners direct staff on an appropriate course of action in the next month so that staff can move forward with either getting a contract in place with a firm or hiring additional staff. For a future agenda, staff will include the more detail about the pros and cons of each option and answer any follow up questions the Board may have.

BUDGET AMENDMENT

In June 2019, the Public Health Department received a letter from the North Carolina Community Care Networks, Inc that they must return excess reserves in the amount of \$67,126. Per that contract, the County received revenues above and beyond what was necessary to provide services and was expected to hold excess revenues in a reserve fund. The underlying logic to this stipulation in the contract was that there would be funding to provide these services for several months in the event there was a lapse in outside funding. At fiscal year-end 2018, the County had encumbered \$67,126 in the general fund's restricted fund balance for this purpose. The State and its agent (the Community Care Networks Inc.) have opted to exercise their right under the contract to have these reserves returned.

County Administration and Finance were unaware of the invoice received by the Health Department in June and were not notified that this payment needed to be made until September 30, 2019. As a result, staff was not able to incorporate this into the County's FY 20 budget. Staff requested the Board authorize an appropriation of restricted fund balance in the amount of \$67,126.

Commissioner Cathey moved to appropriate \$67,126 from the restricted fund balance for the Health Department and authorized the Finance Department to pay the invoice received in June, Commissioner Lemel and unanimously approved.

MANAGER'S REPORT

The Manager reported the following:

- The Gibbs Charitable Trust Fund held at WNC Community Foundation has granted Transylvania County \$33,325.84 to install hearing loops in the Community Services Building Conference Room and at the Election Center
- The 2nd GetSet toolkit will be launched next week, with the theme of early literacy skills and language development; special thanks for the early education committee and toolkit volunteers
- October 26 is HalloweenFest; Sesame Street and GetSet Celebration at 12 noon in front of County Administration featuring pictures with Cookie Monster from 12:30 p.m. – 1:00 p.m., 1:30 p.m. – 2:00 p.m., 2:30 p.m. – 3:00 p.m., and 3:30 p.m. – 4:00 p.m.
- Noise Ordinance changes are being discussed by the Planning Board. A public input session is scheduled for Thursday evening at the Community Services Building at 7:00 p.m. Details on changes being considered for recommendation by the Planning Board can be found at www.transylvaniacounty.org

Commissioner Guice shared that he has heard concerns from the Sheriff's Office about enforcement of the Noise Ordinance. He was interested in having them share their concerns prior to a call for action by the Board of Commissioners. It is important that the Noise Ordinance is enforceable. The Manager will ask the Sheriff's Office to contact the Board with their concerns.

PUBLIC COMMENT

Edwin Jones: Mr. Jones asked if the former airport property was listed on the FAA maps as an emergency landing strip. If so, he asked if property would have to be maintained as such. Mr. Jones also expressed concern about the school bond construction contracts. His background in contracting taught him that if there is no understanding between the parties, then there is no contract. He applauded the Board's action to ensure the contracts provide clarity on the roles and responsibilities, language, etc. based on the County's experience with the industrial building.

Larry Chapman: Mr. Chapman shared that his wife Jill, who serves as Senior Society President of the Children of the American Revolution, will be hosting their NC fall/winter board meeting during HalloweenFest on October 26 at the Military History Museum. They plan to participate in the Sesame Street activities.

COMMISSIONERS' COMMENTS

Commissioner Cathey shared that today is a national holiday-Columbus Day. He shared a brief history of the life of Christopher Columbus and his impact on our American republic.

Commissioner Chappell shared that this Wednesday is the annual Field of Faith on football field at Rosman High School at 6:00 p.m. Food will be served followed by a ceremony at 7:00 p.m. It is a communitywide event and all are invited.

Chairman Hawkins moved to enter into closed session per North Carolina 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, seconded by Commissioner Cathey and unanimously carried.

CLOSED SESSION

Per North Carolina 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 6:33 p.m. Present were Chairman Hawkins, Commissioners Cathey, Chappell, Guice and Lemel, County Manager Jaime Laughter, County Attorney Misti Bass, and Clerk to the Board Trisha Hogan.

Commissioners received an update from the County Manager, the Board's negotiating agent, on the potential purchase of property and instructed staff on how to proceed.

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

OPEN SESSION

Chairman Hawkins moved to seal the minutes of the closed session until such time that opening the minutes does not frustrate the purpose of the closed session, seconded by Commissioner Guice and unanimously approved.

ADJOURNMENT

There being no further business to come before the Board, **Chairman Hawkins moved to adjourn the meeting at 6:42 p.m., seconded by Commissioner Cathey and unanimously carried.**

Mike Hawkins, Chair
Transylvania County Board of Commissioners

ATTEST:

Trisha M. Hogan, Clerk to the Board