

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
July 12, 2021 – REGULAR MEETING

The Board of Commissioners of Transylvania County met in regular session on Monday, July 12, 2021 at 4:00 p.m. in Commissioners 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 Julie Hooten participated remotely via Zoom meeting software.

Media: *The Transylvania Times* – Alex Perri (participated remotely)
Brevard Newsbeat – Dan DeWitt

There were approximately 25 people in the audience.

CALL TO ORDER

Chairman Jason Chappell presiding declared a quorum was present and called the meeting to order at 4:01 p.m.

WELCOME

Chairman Chappell welcomed everyone to the meeting participating both in-person and remotely. He introduced Commissioners and staff in attendance.

PUBLIC COMMENT

Gerry Hunsicker: Mr. Hunsicker spoke about his concerns with the education system and suggested that parents and school administrators should put the emotional welfare of children ahead of focusing on those negative issues that divide us. He reminded everyone that God created only one race, the human race, and that critical race theory being taught in schools will confuse today's youth and continue the divide.

Zane Shook: Mr. Shook complained to Commissioners about their recent decision to increase the minimum scale fee at the landfill to \$15, and he asked them to reconsider. He shared that he does not dispose of enough trash to meet the \$15 threshold. He feared the fee hike would result in people disposing of their trash illegally or burning their trash.

Marybeth Shoemaker: Ms. Shoemaker stated that MountainCare is a much-needed program in Transylvania County. It has served her family and many others in the community. She emphasized that MountainCare provides excellent programming, and it is important that they continue providing these services.

Bruce Gleasman: Mr. Gleasman addressed the Board about the budget they recently passed and asked them to lower the tax rate to 55 cents by asking departments to spend 3% less across the board. He also suggested that rather than building a new courthouse, the courts should begin holding court virtually. He felt that Transylvania County government was too large.

AGENDA MODIFICATIONS

There were no agenda modifications.

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

CONSENT AGENDA

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

The following items were approved:

MINUTES

The Board of Commissioners met in a regular session on April 12, 2021 which included part two of a capital workshop. The Board approved the minutes as submitted.

REQUESTS FOR OUT-OF-STATE TRAVEL

The Board of Commissioners received three requests for approval for out-of-state travel as described below.

Emergency Management Director Kevin Shook and Communications Director Cameron Sexton requested to attend the Southern Software annual conference in Myrtle Beach, SC in late October. The conference was canceled in 2020 due to COVID. During this conference, Southern Software will show the new user features they have developed over the past year for their products and address administrative functions. There will also be a roundtable discussion with the programmers to share feedback on what is working well and whether there are any software issues to address. Southern Software partners with Transylvania County to do GIS updates. Staff budgeted the funds to cover this training. Southern Software does not charge an entry fee for this conference. The only cost will be for the transportation, hotel, and meal per diem for two people. The Board approved the request for out-of-state travel as submitted.

Solid Waste Director Kenn Webb has been selected to speak at the Region 6 SWANA (Solid Waste Association of North America) conference in Roanoke, VA on August 25. He intends to present the County's innovative demonstration of fungi in a solid waste application. Additionally, his attendance at the conference will provide him with the continuing education requirements needed for current landfill credentials. Speakers' conference registration and lodging have been discounted, and Mr. Webb will not require reimbursement for travel or meals. The Board approved the request for out-of-state travel as submitted.

Epiphany Community Services is a national-level evaluator which provides support to approximately 100 community-based coalitions throughout the United States. They offer an annual training/technical assistance conference for clients which convenes coalitions similar in scope to the C.A.R.E. Coalition to network, learn best practices, and improve in professional skills critical to the Coalition's work, such as emerging evaluation and data trends, grant-writing, capacity building, maintaining effective partnerships, strategic planning, and meeting facilitation. Coalition staff requested permission for out-of-state travel. The training and travel will be funded by the federal CARA grant, and there are no local funds required. The Board approved the request for out-of-state travel as submitted.

REQUEST TO APPLY FOR DOGWOOD TRUST GRANT FOR COMMUNICATIONS
TOWER/BROADBAND

The County's communications system needs capital improvements, including an upgrade of the Toxaway Mountain site and the addition of two additional towers to allow for better coverage. There are several areas in Transylvania County with deficiencies in coverage. Two additional tower sites (Mine Road in Pisgah Forest and Sassafras Mountain Glady Fork) would enhance coverage for public safety purposes while presenting opportunities to enhance broadband in underserved areas. The total cost of the projects/capital improvements is estimated at \$1.5 million. Staff requested permission to apply for funding from the Dogwood Trust Foundation to offset some of the costs to the County. The Board authorized staff to proceed with the grant application.

PRESENTATIONS/RECOGNITIONS

RECOGNITION OF OUTGOING CITIZEN ADVISORY COUNCIL MEMBERS

The Board of Commissioners implemented a recognition program to express their appreciation to citizens who volunteer their time and expertise on the County's citizen advisory councils. The Board recognizes citizens on a semi-annual basis. This period covered January 1, 2021-June 30, 2021. The Board recognized Judith West for her eight years of service on the Social Services Board. Chairman Chappell presented her with a certificate of appreciation and a mug with the County logo on it.

PRESENTATION BY MOUNTAINCARE

Elizabeth Williams, Executive Director of MountainCare, shared the current state of the Transylvania Adult Day program and ways in which the County might collaborate with MountainCare in building a sustainable future for the program.

Ms. Williams stated that Adult Day provides quality care to members of the community, as well as a respite to family members. Just as the saying goes, "It takes a village to raise a child," she said it also takes community support to care for each other as we age. The organization's mission is to support older adults as they age by providing them with a safe, engaging, and social place to spend the day while supporting those that care for them.

Ms. Williams shared the following data about those they serve:

- 65% receive financial aid
- 95% have cognitive impairment
- 100% have chronic health conditions (compared to 65% in Henderson County Adult Day)
- 33% have mental health conditions (compared to 33% in Henderson County Adult Day)
- In 2019 (pre-COVID), provided 4,000 days of service to over 50 participants and their families, which equates to 3,200 lunches, 1,000 medications, and 2,500 activities

Ms. Williams expected the need for service to continue to rise. By 2028, one in five North Carolinians will be 65 and older. By 2031, there will be more people 65 and older than children 0-17. Transylvania County has a higher percentage of older adults than the state average. 30% of adults over 65 in Transylvania have one or more disabilities. One in nine aged 65 and older have Alzheimer's dementia. Ms. Williams was concerned about the future of programs like Adult Day and whether there would be appropriate and affordable care for older adults. She felt strongly that all communities should have an adult day center as part of the solution to provide options for adults to age in place. She stated now is the time to ensure those programs can meet the needs of the community as they continue to grow.

Unfortunately, the Adult Day program is dealing with multiple challenges that have put the future of the program in jeopardy. The two most impactful challenges were the transition from the HCA/Mission healthcare system and the pandemic. The transition out of HCA increased the cost of services and decreased the revenue and funding streams. They are now paying \$62,000 annually in rent, as well as other services, like human resources, information technology, and finance, that they did not have to pay for in the past. The pandemic negatively impacted revenues by thousands of dollars per month.

MountainCare's deficits are being covered by funding from a foundation, but those funds are not paying for the expenses in Transylvania County. MountainCare's strategic plan incorporates a diversified business model. The shift to a fee-for-service model impacts those they serve. Adult Day needs to secure funding for 2022 through increased enrollment, more volunteerism, and a reduction in unsustainable reimbursement rates. To ensure there will be an Adult Day in Transylvania County, these challenges must be addressed. They want to continue providing an option for older adults to age in place, sustain caregivers, and strengthen their partnerships to support older adults.

To continue providing this service, Adult Day is seeking help. Despite all the challenges brought on by the pandemic, it also provided an opportunity to make a long-lasting impact on the population that is most affected by the pandemic – older adults. Ms. Williams pointed out that the American Rescue Funds provide a historic opportunity to create a stronger plan for older adults in Transylvania County. One way this can be accomplished is by making a capital investment in a building to ensure the program has a secure home or building and one that can be expanded when services grow. This would build a comprehensive support system for older adults by helping them access a variety of services. Ms. Williams asked the Board's help in ensuring that Transylvania County has an Adult Day program.

This concluded her presentation. Chairman Chappell called for questions and comments from Commissioners.

Commissioner Chapman acknowledged that the separation from HCA/Mission Health impacted their funding. He pointed out that this program appears to fit with the mission of the Dogwood Trust Foundation, and he asked if they had sought funding from them. Ms. Williams agreed that the Adult Day program fits Dogwood's mission, but in their pursuit of funds, Dogwood informed MountainCare to look for community support for the program. Hence their request to the County for a building that is currently county-owned or one available for purchase.

Commissioner McCall asked if the hospital intends to sell the building the Adult Day program currently occupies or whether the hospital has asked them to vacate. Ms. Williams said the local hospital representatives have indicated they are willing to sell the building, but the current rent is not sustainable. HCA, however, has not indicated its plans for the building, further putting the program into jeopardy.

Commissioner McCall asked if there was a prior agreement with Mission. Ms. Williams stated that when Mission Hospital purchased Transylvania Community Hospital, Adult Day became part of that healthcare system until February 2019. After the HCA purchase, Adult Day became a separate entity and their only connection to HCA is through the use of the same building for which they must pay rent. The previous organization, CarePartners, anticipated that HCA would not carry services with a negative operating margin. This has resulted in their funding being impacted and their being forced to make decisions quicker than they want to.

Chairman Chappell inquired about citizens' ability to donate toward this program. Ms. Williams stated they would accept donations through mountaincareservices.org.

Ranessa Thomas, the local program manager for Transylvania Adult Day, inquired about whether the American Rescue Plan funds could be used to establish an active aging center where older adults can access services and programs through community collaboration. The Manager responded that US Treasury guidance does not indicate that a project like this would qualify for use of ARP funds. The guidance has been specific in that the funds must be focused on infrastructures like water, sewer, and broadband, but not buildings. She noted however that the guidance is not final.

Commissioner Guice commented that the State and the federal government have cut spending significantly for nonprofits and many of them have been led to believe that funding will be available to them through the ARP. He noted some counties are considering using the funds differently and he felt it was important for staff and the Board to take the time necessary to understand the funding parameters. Nonetheless, he was concerned about the future of this program and the negative impact of that loss on the community.

The Manager pointed out that other counties have issued calls for nonprofit applications for ARP funding, but they did so before federal guidance was issued. She said there have been a lot of miscommunications about how the funds can be used. Transylvania County intends to make sure the guidance is clear before spending or granting any ARP funds. She noted there is a lot of interest from nonprofits and others in the community for these funds. When they make inquiries to the County, the staff is sharing copies of the US Treasury guidance with them. During the annual audit, if counties are found to have spent ARP funds on ineligible expenses, it will be the taxpayers who become responsible for those clawbacks.

Chairman Chappell pointed out there is an agenda item related to the ARP topic later during this meeting. He shared that these discussions will be ongoing because Transylvania County wants to ensure the funds will be used in a way that has the most impact on citizens, but also in a way that meets the federal government's guidelines.

APPOINTMENTS

VOTING DELEGATE TO THE NC ASSOCIATION OF COUNTY COMMISSIONERS ANNUAL CONFERENCE

The NC Association of County Commissioners (NCACC) will hold its 114th Annual Conference in New Hanover County on August 12-14, 2021. The NCACC requires counties to elect a voting delegate to the Annual Conference. The voting delegate is authorized by the counties to vote on business items during the conference. Commissioners Chapman and McCall are registered to attend the Annual Conference. The voting delegate form is due to the NCACC by August 9.

Commissioner McCall moved to nominate Commissioner Larry Chapman as the Voting Delegate to the NCACC Annual Conference, seconded by Commissioner Guice and unanimously approved. Commissioner Chapman moved to nominate Commissioner Teresa McCall as the Alternate Voting Delegate to the NCACC Annual Conference, seconded by Commissioner Guice and unanimously approved.

APPOINTMENT OF DSS SPECIAL COUNSEL

DSS Special Counsel John Aldridge resigned from his position in April. Misti Bass has continued to fulfill the legal activities for the Department of Social Services. The County recruited qualified applicants to fill the position. A selection committee recommended the appointment of James "Jay" Taylor, III as DSS Special Counsel. Mr. Taylor received his Juris Doctor from Tulane University School of Law, master's degree in biology from East Carolina University, and bachelor's degree in English from the University of Alabama. His prior work included consulting, several years in private practice, and three

years' DSS experience with Henderson County. If appointed, Mr. Taylor can begin employment on July 26. In addition, the Manager will work with Mr. Taylor and Ms. Bass to ensure a successful transition.

Commissioner Chapman moved to appoint James "Jay" Taylor III as DSS Special Counsel, seconded by Commissioner McCall and unanimously approved.

Commissioner Guice moved to designate the management of the position to the County Manager, seconded by Commissioner McCall and unanimously approved.

OLD BUSINESS

FIRE/RESCUE SERVICES CONTRACT REVISION

Assistant County Manager David McNeill presented this agenda item. He reported there have been several changes in policies and procedures since the last update to the fire department contracts in 2012. Staff worked with the County Attorney to revise the contract to reflect changes to the audit requirement and current procedures and operations. In April, County staff requested fire and rescue departments to review the revisions and provide input, but no department provided any feedback. Therefore, the Board of Commissioners approved the final contract and then staff forwarded copies to each fire and rescue agency for execution by July 1. To date, four of the seven fire departments, excluding the Brevard Fire Department, have signed the contract. The County revised its contract with the City of Brevard Fire Department in 2020.

Three fire departments – Cedar Mountain, Lake Toxaway, and Little River – have not executed the contract, citing concerns over the audit requirement, adding the County as additional insured, the turnaround time for execution, and mediation clauses. The remedy is for the Board of Commissioners to instruct staff to notify each of those departments that their contract with the County will terminate in 90 days if not executed. Mr. McNeill pointed out that the County does not wish to terminate its relationship with any of the fire departments, but notification would serve to meet the contractual requirement. He stated the contract revisions were necessary to reflect the legal, operational, and fiscal responsibilities for both the County and the departments in the use of tax dollars to support fire and rescue services.

Chairman Chappell allowed Jimmy Jones, President of the Board of Directors for Cedar Mountain Fire Rescue, to address the Board. Mr. Jones stated that Cedar Mountain Fire Rescue was not pleased with the contract revisions and preferred to operate under the former contract. He stated that the department did not receive the contract on time for review and thus the department wanted the ability to negotiate the terms of the contract.

Mr. McNeill responded that the contract is for countywide fire service protection that spans across all the fire service districts. He said it would be difficult to manage multiple contracts with different terms. His understanding was that most complaints resulted from the Board's decision to contract with a firm to complete all the fire departments' audits. At least one department wanted to continue using the auditor they had used in previous years, and others were not pleased with the auditor chosen by the County.

The Manager gave a history of the Board's audit decision. She reported several instances of concern with the fire departments' audits over the last few years. She cited one incident where the audit submitted by a rescue agency was produced fraudulently. Other issues were related to a couple of departments' failure to file and retain their nonprofit status. This is significant in that when public funds go to an agency that is not recognized by the IRS, it creates a taxable incident whereby the IRS could require payment of back taxes against those public funds. Another purpose for having one auditor conduct the audits for the fire and rescue agencies is for uniformity, standardization, comparability, and timeliness. The Manager shared that after requests for qualifications were received, a review team made up of County staff and

Commissioners and the chair and vice-chair of the Fire Chiefs Association recommended the firm that the Board of Commissioners approved. The new audit process generated a revision to the contract. The County Attorney recommended other revisions to be in line with statutes and other legal languages that is standard in contracts of this type.

Commissioner McCall stated that the audit decision was made by the Board some time ago, so it should not have been a surprise to the fire and rescue departments that the requirement would be included in the service contract. While she understood that some departments might not agree with the Board's decision, from a financial standpoint, having one auditor provides consistency and standardization. She also pointed out the County Attorney advises the Board on legal matters, and she trusted their judgment on legal language changes in the contract. Commissioner McCall recommended the Board agree to fund the three fire departments for the first quarter with the hopes of all contracts being fully executed by the end of the first quarter. She felt the Board's actions up to this point have been fair and she had no desire to negotiate seven different contracts.

Commissioner Dalton participated in the audit selection and reemphasized that representatives from the Fire Chiefs Association were supportive of the auditor that was chosen.

Commissioner Chapman agreed with Commissioner McCall's suggestion, noting that changing auditors every few years would ensure a new set of eyes on the financials.

Commissioner Guice added that the Board expects that the departments sign the contracts. He stated that the Board has made previous decisions based on the interest of the taxpayers.

Chairman Chappell agreed with the comments made thus far. He pointed out that audits are becoming increasingly complicated, and he does not expect that to change, particularly with the influx of federal funds into state and local governments. He suggested that the three departments that have not signed their contracts meet with County staff during the next 90-day period to get their questioned answered so this process can move forward.

The Manager recommended the Board exercise its right to terminate the contract giving 90 days' notice which is spelled out in the new contract. If these departments do not sign the contract within 90 days, the Board could then cease the contract and not release further quarterly payments. If the Board delayed that decision tonight, the 90-day period would commence at some other time of the Board's choosing.

Commissioner McCall moved to exercise a notice of termination in 90 days for those departments that have not signed the contracts, seconded by Commissioner Chapman. Commissioner Guice urged the Board to be cautious about its actions because sometimes perception is more than reality. He stressed the importance of these departments to the safety of the community, and he did not want to give the perception that the Board is haphazardly canceling fire service contracts. Commissioner McCall stated the County cannot be held hostage by a few departments wanting to piecemeal their contracts while others have agreed to sign. She agreed that perception is important but the intent is to ensure the departments sign the contracts so there is no impact on services. Chairman Chappell agreed that the intent is for the departments to sign the contracts, but he is concerned about the contractual deadlines and therefore supported the motion. There were no further comments, and the **motion passed unanimously.**

NEW BUSINESS

LETTER OF SUPPORT FOR CITY OF BREVARD'S RAISE GRANT APPLICATION

The Manager reported that the City of Brevard requested a letter of support from the County to submit with its RAISE grant application. The City of Brevard is applying for \$21 million in federal funds to help

fund the construction, planning, development, and build-out of the eight miles of the Ecusta Trail located in Transylvania County (\$11.67 million), additions and improvements to the Eastatoe Trail (\$5.82 million), and the downtown streetscape improvement project (\$8.2 million). The total cost of the projects is \$26 million. The City of Brevard would commit to the matching funds if their application were approved. The Manager sought direction from the Board on the letter of support. She noted the City has already submitted the grant application so a letter from the Board of Commissioners would be forwarded separately.

Commissioner Chapman was disappointed that the City of Brevard did not request a letter before submission of the application, and he wondered whether a letter of support would impact their application at this point. He acknowledged that the Board and citizens along the trail still have questions that remain unanswered, but he felt a letter of support was still appropriate.

Commissioner Guice felt that sending a letter of support would be important because the proposed projects are important to the entire community, not just the City of Brevard.

Chairman Chappell did not support sending a letter to accompany an application that the City has already submitted, particularly because he was unsure if a letter of support committed the County to provide future support of funding or maintenance of the Ecusta Trail.

Commissioner McCall shared the same concerns as Chairman Chappell. She added that there are many citizens with property along the trail that remain unhappy with the responses they have received from the trail supporters about the potential impacts to their property. While a letter of support does not commit the County to any funding, she said it would give the perception that the Board of Commissioners supports the project. At this time, she is not ready to support the project because there remain too many unanswered questions.

Commissioner Dalton was concerned about the trail impacting a local business along the route that could cost them the business's jobs and harm future expansion efforts. He agreed that there remain many unanswered questions related to the Ecusta Trail regarding property rights. Until then, he did not feel comfortable sending a letter of support for the project.

Commissioner Guice commented that the proposed Ecusta Trail project has been ongoing for some time, and he was confident it would come to fruition in Transylvania County. He acknowledged some feel their questions have not been answered, but he stated there are answers to their questions as well as many property owners along the line who support the project and are excited about the opportunity it will bring recreationally and economically.

Commissioner Guice moved that we support the request from the City of Brevard for a letter from the County Commissioners in support of the RAISE grant application that is requesting approximately \$21 million in federal funds for a total project cost of \$25,690,000, with the City committing to the local match. The motion died for lack of a second.

OPIOID LITIGATION SETTLEMENT

(County Attorney Bill Bulfer joined the meeting via Zoom meeting software. He had previously advised the Board on the opioid litigation settlement and was available to answer the Board's questions.)

The Manager reported that State Attorney General Josh Stein and the North Carolina Association of County Commissioners have developed an agreement to fight the opioid epidemic. The agreement governs how North Carolina would use the proceeds of any future national settlement or bankruptcy resolution with drug distributors Cardinal, McKesson, and AmerisourceBergen and opioid manufacturers

Johnson & Johnson and Purdue Pharma. These potential settlements and resolutions could bring as much as \$850 million to North Carolina over 18 years to support state and local efforts to address the epidemic.

To maximize funds flowing to North Carolina communities on the front lines of the opioid epidemic, the agreement would direct settlement funds as follows:

- 15% to the State of North Carolina, which the General Assembly would appropriate to address the epidemic
- 80% to local governments, including all 100 counties and 17 municipalities
- An additional 5% to an incentive fund to encourage counties and large- and medium-size municipalities to sign onto the agreement

In addition, the agreement offers a high level of transparency into how local governments will use the funds, including special revenue funds subject to audit, annual financial and impact reports, and a public dashboard showing how they are using settlement funds to address the epidemic.

The agreement provides two options for funding research-based approaches to mitigate the impacts of opioids on communities. After consultation with the Sheriff's Office and Public Health Department, the Manager and County Attorney recommended the Board adopt the Memorandum of Agreement selecting Option B as the funding option. Transylvania County would be eligible to receive \$181,000 over the period. The agreement is extremely specific on how the funds shall be used.

Commissioner Dalton moved to adopt the Memorandum of Agreement and select Option B of the opioid litigation settlement and to authorize the chairman to sign the documents, seconded by Commissioner McCall. Commissioner Guice commented that the award to Transylvania County is not much given the impact of opioids on this and many other communities, but he did not minimize the receipt of those funds and how the County might use them to continue the fight against the opioid crisis. He reminded everyone that Transylvania County was one of 10 communities selected in the State of North Carolina to participate in a two-year project around the opioid crisis. The CARE Coalition and others have done great work so far and he expected it to continue. **The motion was approved unanimously.**

**RESOLUTION #23-2021
A RESOLUTION BY THE COUNTY OF TRANSYLVANIA
APPROVING THE MEMORANDUM OF AGREEMENT (MOA) BETWEEN THE STATE OF
NORTH CAROLINA AND LOCAL GOVERNMENTS ON PROCEEDS RELATING TO THE
SETTLEMENT OF OPIOID LITIGATION**

WHEREAS, as of 2019, the opioid epidemic had taken the lives of more than 16,500 North Carolinians, torn families apart, and ravaged communities from the mountains to the coast; and

WHEREAS, the COVID-19 pandemic has compounded the opioid crisis, increasing levels of drug misuse, addiction, and overdose death; and

WHEREAS, the Centers for Disease Control and Prevention estimates the total "economic burden" of prescription opioid misuse alone in the United States is \$78.5 billion a year, including the costs of healthcare, lost productivity, addiction treatment, and criminal justice involvement; and

WHEREAS, certain counties and municipalities in North Carolina joined with thousands of local governments across the country to file lawsuits against opioid manufacturers and pharmaceutical distribution companies and hold those companies accountable for their misconduct; and

WHEREAS, representatives of local North Carolina governments, the North Carolina Association of County Commissioners, and the North Carolina Department of Justice have negotiated and prepared a Memorandum of Agreement (MOA) to provide for the equitable distribution of any proceeds from a settlement of national opioid litigation to the State of North Carolina and individual local governments; and

WHEREAS, Local Governments and the State of North Carolina anticipate a settlement in the national opioid litigation to be forthcoming; and

WHEREAS, it is anticipated that a settlement in the national opioid litigation with Johnson & Johnson, AmerisourceBergen, Cardinal Health, and McKesson will make available, to the counsel with whom Transylvania County has a direct contractual relationship, the opportunity to participate in a subdivision and common benefit attorneys' fee fund of approximately \$1.6 billion or more at the national level in exchange for a waiver of the counsel's contingency fee agreements with local governments including Transylvania County concerning recoveries from those companies; and Transylvania County's approval of the MOA shall be conditional and revoked if, by August 1, 2021, such counsel files a written representation to the MDL Court that counsel does not intend to participate in the subdivision and common benefit attorney's fee fund; and

WHEREAS, by signing onto the MOA, the state and local governments maximize North Carolina's share of opioid settlement funds to ensure the needed resources reach communities, once a negotiation is finalized, as quickly, effectively, and directly as possible; and

WHEREAS, it is advantageous to all North Carolinians for local governments, including Transylvania County and its citizens, to sign onto the MOA and demonstrate solidarity in response to the opioid epidemic, and to maximize the share of opioid settlement funds received both in the state and this county to help abate the harm; and

WHEREAS, the MOA directs substantial resources over multiple years to local governments on the front lines of the opioid epidemic while ensuring that these resources are used in an effective way to address the crisis.

NOW, THEREFORE BE IT RESOLVED, Transylvania County hereby approves the Memorandum of Agreement Between the State of North Carolina and Local Governments on Proceeds Relating to the Settlement of Opioid Litigation and any subsequent settlement funds that may come into North Carolina as a result of the opioid crisis. Furthermore, Transylvania County authorizes the County Manager (or County Attorney) to take such measures as necessary to comply with the terms of the MOA and receive any settlement funds, including executing any documents related to the allocation of opioid settlement funds and settlement of lawsuits related to this matter. Be it further resolved copies of this resolution and the signed MOA be sent to opioiddocs@ncdoj.gov as well as forwarded to the North Carolina Association of County Commissioners at communications@ncacc.org.

Adopted this the 12th day of July 2021.

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

CALL FOR PROPOSALS FOR AMERICAN RESCUE PLAN PROJECTS

Finance Director Jonathan Griffin presented this item to the Board. At the previous meeting, the Board adopted a grant ordinance that accepted and appropriated a partial sum of the American Rescue Plan

(ARP) funds. At the same meeting, the staff asked for Board direction about whether to proceed with issuing a call for nonprofit partners to assist in the spend-down of the local fiscal recovery funds. The Board tabled the decision to issue a call for nonprofit agencies to submit proposals so that staff could get more clarity on how the funds can be used.

Mr. Griffin included in the Board's agenda packet excerpts from the larger document that illustrate the reporting requirements and the list of valid expenses. He reported that he reviewed the 35-page document from the U.S. Treasury that explains all the reporting requirements and it indicates that aid to nonprofit organizations is possible, but with significant caveats:

- Aid to nonprofit organizations is allowable only under the category of addressing negative economic impacts. This requires the County to document and justify what negative economic impact has occurred to the organization in question.
- Aid to nonprofits has an additional supplemental requirement that the grantor (the County) must document and determine if the program receiving assistance is using evidence-based practices, and the County must report how much of the total allocation is being made per project in public health, negative economic impacts, and services to disproportionately impacted communities.
- Awards exceeding \$50,000 are considered subawards, meaning the same compliance and documentation requirements that apply to the County government will also apply to the recipient agencies, including but not limited to:
 - Public disclosure of the pay of the five highest-paid employees/staff
 - Itemized documentation of all expenditures
 - Registration with the System for Award Management and DUNS
 - County staff would be responsible for conducting monitoring to ensure that the nonprofit agency complies with the requirements of 2 CFR 300 (the Uniform federal rules for grant performance)

It is permissible to award ARP funds to a nonprofit agency; however, the circumstances of the scope of that award may be significantly narrower than the nonprofit agency desires. Additionally, awardee agencies may or may not be uncomfortable with the level of oversight these funds require which would need to be addressed through a memorandum of understanding.

Mr. Griffin reported that he drafted a request for proposals that includes a pre-application process and final Board approval of any funding awarded. He recommended the Board instruct staff to issue a request for projects with the appropriate caveats that it is possible the County may not be able to successfully award funds based on any submissions.

Commissioners were supportive of the recommendation and hoped the process would bring to light the needs in the community.

Commissioner McCall moved to approve recommended RFP process with the Board of Commissioners giving the final approval, seconded by Commissioner Guice, and unanimously approved.

FY 2021 BUDGET AMENDMENTS

Finance Director Jonathan Griffin presented the following budget amendments for the Board's approval.

RECOGNITION AND APPROPRIATION OF REVENUE

#64 reflects the re-budgeting of a grant that originally began in FY 2019. The U.S. Forest Service initiated the "Good Neighbor" program with the North Carolina Department of Agriculture and Consumer

Services to allow for the US Forest Service to delegate certain construction projects on federal lands to other agencies. The Department then chose to contract with the County and its Soil and Water Conservation Service to bid on the project and oversee the construction of a bridge over Cove Creek to allow for motor vehicle access to the Cove Creek campground. After several false starts, the County was able to bid and award the project in FY 2021 and which remains ongoing. There is no local match requirement.

#68 recognizes an \$18,753 grant received from the North Carolina Department of Emergency Management through the supplemental EMPG (Emergency Management Performance Grant) program to Transylvania County Emergency Management for supplemental equipment and supply purchases.

#69 recognizes a special donation made to the Planning and Community Development department during FY 2021 to help with supplemental expenses related to the 2020 U.S. Census outreach. These resources were used to print materials and radio advertisements.

#72 recognizes an additional \$15,000 in additional program revenue in the Parks and Recreation department to ease scheduling issues during the summer months. The Parks and Recreation department exceeded its program revenue goals for FY 2021 by over \$30,000, so this accounts for less than half of that overage.

#83 recognizes an additional \$17,162 in LIEAP expenditure in the Department of Social Services related to an additional one-time supplement that was appropriated in May 2021. This was a one-time additional appropriation that had to pass through the County's expenses.

#85 recognizes a special donation from Lake Toxaway Charities to offset the costs of operating supplies for the New Adventure Learning Center.

#97 reflects additional revenues and expenses in the General Fund related to the activities of the Children's Center of Transylvania County. As the Children's Center is a small nonprofit organization, the North Carolina Department of Public Safety requires that the Transylvania County Finance Office serve as the grant manager and local oversight agency and that these resources pass through the County's budget as a means of accountability.

The expenses for these grants are recorded in the organization for other social programs not affiliated with the Public Health Department or Social Services.

FUND BALANCE APPROPRIATIONS

There are no fund balance appropriation amendments that were not previously approved by Board action. Throughout the fourth quarter, the Board acted on various agenda items that involved fund balance appropriations, including needed repairs at the County's park facilities, the Animal Shelter, or carryforward appropriations related to Transylvania County Schools paving projects.

BUDGET AMENDMENTS RELATED TO PASS-THROUGHS AND REMITTANCES

#63 represents adjustments necessary to the Register of Deeds budgets to account for higher-than-expected revenues. While each Register of Deeds is elected and manages their office locally, their duties are set by statute and authorized by law.

Additionally, revenue and expense activity for the Register of Deeds impacts more than the General Fund. The County also maintains a special revenue fund to account for revenues required to be held in trust for the Register of Deeds for automation enhancement and historic preservation projects and an additional 1.5% to be held in trust and remitted monthly to the State's General Fund.

Included in the Board's agenda packet was an analysis of the revenues and expenses showing the impact of three different funds (the General Fund, the Automation Fund, and the Deed Stamp Fund) and 13 line items. The largest change is increased projected excise tax from a total of \$774,886 for FY 2021 to a total of \$1,323,660, which then increases the expected expense (50% of revenue) from \$379,694 to \$648,600.

With this amendment, the Register of Deeds Office is estimated to bring back an additional \$398,173 net to the General Fund after required revenue sharing expenses are adjusted.

#82 is the second adjustment to projected occupancy tax revenues required to the General Fund. By statute, Transylvania County levies a 5% occupancy tax rate and charges staff with collecting and administering this program and then requires it to be remitted to the Transylvania County Tourism Development Authority. This amendment was necessary to adjust based on actual collections and payments through April 30, 2021.

#99 revisits the Register of Deeds excise tax and occupancy tax collections as of June 30, 2021 to align them with estimated year-end expenditures a second time in the case of the Register of Deeds and a third time in the case of the occupancy tax. An additional \$30,000 in pass-through expenditures to the State of North Carolina needed to be recognized and an additional \$140,000 is estimated to cover the expenses related to occupancy tax collections in July, which reflect June transactions and are paid out of the FY 2022 budget.

DISASTER RESPONSE FUND

These are appropriations made to cover reimbursed expenses from the CARES Act resources and reflect accounting requirements imposed by GASB or the NC Department of State Treasurer and do not reflect additional spending, only the reallocation of expenditures that have already occurred.

#93 For the period of January through May, the County Transportation department was able to allocate \$116,955 of expenses from the General Fund to NCDOT's CARES Act reimbursement process. This reflects significant salary and benefit costs, fuel, and operating expenses that were billed out of the General Fund. It does require that fares be pledged as a local match, so a small amount of transit fares offsets the total expenses.

#98 The County Transportation department estimates an additional \$27,000 will be reimbursable for June 2021 but has yet to receive written confirmation. Expecting that this reimbursement will come, this adjustment is recommended to complete grant filing for FY 2021.

OTHER ADJUSTMENTS

#94 Significant allocations of savings from the use of CARES Act funds were accumulated throughout the year in the General Fund's contingency. As expenses were able to be moved to the Coronavirus Relief Funds, staff impounded general fund appropriations to earmark them. This left an unplanned balance of approximately \$867,000. Mr. Griffin reviewed the needs throughout the budget and made the following recommendations about how to use the resources:

- \$600,000 as a one-time deposit to the County's health plan to smooth over potential cost spikes in future years. While this year's claims activity has been lower, the County experienced a tougher claims year last year so this will smooth the possibility of future spikes in FY 2022.
- \$259,000 to relocate expenses from the CARES Act (Disaster Response Fund) to the General Fund. In FY 2020, staff budgeted and spent down resources to make certain necessary supply and equipment purchases related to COVID-19. The staff has filed for reimbursement which has been approved and obligated at the federal level. The State Treasurer's office expected the cash

to flow back to the counties for these types of expenses more quickly so they changed their guidance to move monies back to the General Fund. The County has received written confirmation that the reimbursement is on the way, so this will just be extra revenue in the General Fund sometime in FY 2022. The General Fund has more cash and is in a better place to hold the FEMA expenses until the reimbursement occurs.

- \$40,533 to offset the costs of the County Attorney contract budget, which has been strained by several large projects this fiscal year, including but not limited to Medicaid Transformation and the Tourism Development Authority's recent actions regarding its contract with the Brevard/Transylvania Chamber.

#95 The County has historically budgeted cost of living adjustments in a central location in the County's budget, as many departments have independent hiring and firing authority and distributed those adjustments to their budget at year-end to mitigate any risk of improper salary adjustments or unauthorized positions

Mr. Griffin included a summary of the departments receiving adjustments in the Board's detailed agenda packet for brevity. This reflects a transfer between departments and does not represent additional expenditures.

#96 The County has historically used a separate fund to account for contributions to a 457(b) deferred compensation plan for County employees due to limitations with its accounting software. This was previously reflected in prior budget ordinances as a 457 Contribution Fund. The current year's budget is \$262,500. The County's new finance software provides the capability for these contributions to be directly reflected in the County's departmental budgets resulting in the repeal of the 457 fund.

Additionally, in implementing the GASB 84 requirements, the County was informed by the NC Department of State Treasurer that it needed to set up a new special revenue fund to account for receipts and expenses related to the Representative Payee program operated by the Department of Social Services. So, the County adopted one last fall for \$125,000. In late June, the General Assembly passed a session law exempting the Representative Payee activity from the Fiscal Control Act, so a budget for these expenses is no longer necessary.

#99 The County maintains a special revenue fund to accumulate the resources paid to the County by the Clerk of Superior Court in facility fees. During FY 2021, these funds were used to pay for the normal operating expenditures of the court (cleaning, coffee service for staff, access to online law library subscriptions), but also on hygiene-related equipment to separate juries due to COVID-19 risk. This appropriates excess revenue to cover those excess expenses for \$6,600. The total budget of these resources rarely exceeds \$25,000 annually.

These amendments will increase the size of the appropriated budgets for the following funds:

- General Fund budget by \$2,226,566 for a year-end total of \$67,719,521
- Self Insurance Fund by \$600,000 for a year-end total of \$4,980,000
- Disaster Response Fund by \$143,955 for a year-end total of \$1,224,310
- The 457 Fund decreases by \$262,500 to a year-end appropriation of \$0
- The Representative Payee Fund decreases by \$125,000 to a year-end appropriation of \$0.
- The Court Facility Special Revenue Fund increases by \$6,600 to a year-end total of \$24,400.

As recommended by staff, **Commissioner Guice moved to approve the requested budget amendments and accept the written report, seconded by Commissioner Dalton, and unanimously approved.**

BOARD OF COMMISSIONERS' ROOM USAGE POLICY

The Board of Commissioners is responsible for many facilities throughout the County. To best serve the public, some of those facilities are made available for use when they are not being used for County service functions. At a previous meeting, the Board directed staff to prepare a room usage policy including a policy and fee structure for the Commissioners Chambers. This room is being requested more often by non-county entities since the COVID-19 pandemic.

The Manager proposed an umbrella facility policy that gives general guidance for facility usage. The umbrella policy allows facility-specific policies to be adopted by the Board of Commissioners to guide staff that must administer scheduling and facility management activities. The Board has already adopted the following policies:

- Community Services Building Conference Room
- Transylvania County Parks and Recreation Department Facility Reservation Policy and Procedure
- Transylvania County Library Rogow Family Community Meeting Room Use Policy

The Manager presented a draft usage policy for Commissioners' Chambers for consideration. She reported that the County Attorney is currently reviewing the policy so there may be some language changes forthcoming. This policy considers the need for IT staffing for the use of the A/V equipment in the room and for expenses related to room use. If Commissioners adopt the umbrella facility usage policy, staff will draft policies for Commissioners' adoption to address reservation and usage of the Library Amphitheater, Courthouse Gazebo, and Elections Conference Rooms.

The Manager asked the Board to approve Transylvania County Umbrella Facility Use Policy and the Transylvania County Commissioner Chambers Usage Policy with a fee structure for the Commissioners' Chambers of \$60 per hour at a minimum of two hours during business hours with no A/V and \$120 per hour at a minimum of two hours outside business hours or during business hours requiring A/V.

Commissioner Dalton inquired about whether the policy should require the user to have liability insurance. The Manager responded the Board could add having coinsurance as a requirement in the room-specific policies. She pointed out that the general public would not typically have liability insurance, but nonprofits and other agencies would. County Attorney Julie Hooten weighed in and offered to explore creating a user agreement that would waive liability against the County in certain circumstances.

Commissioner Chapman suggested the policy include the rule for having no alcohol on County property. The Manager said a statement can be included in the umbrella policy so that it applies to all facilities.

Commissioner McCall asked whether the policy includes a provision whereby the user would be responsible for any cost recovery for any damages that may occur. The Manager confirmed that the umbrella policy includes language about the user being responsible for damages.

Commissioner McCall moved to approve the recommendation for the draft facilities use policy and Commissioners' Chambers use policy and fee schedule, with the addition of the statement regarding the no-alcohol policy, seconded by Commissioner Chapman and unanimously approved.

REQUEST BY BREVARD/TRANSYLVANIA CHAMBER OF COMMERCE TO USE BOARD OF COMMISSIONERS CHAMBERS FOR CANDIDATE FORUM

This item was tabled from the previous meeting so that staff could draft a room usage policy for the Board to consider before approval. The Brevard/Transylvania Chamber of Commerce has requested the use of Commissioners Chambers on September 21 or 23, with the 21st being the first choice, to hold a

candidate forum. The nature of the business they conduct has led the Chamber to host a candidate forum annually.

Basic details of their request include the following:

- Event time: 5:30 pm-9 pm, with set up beginning at 4 pm and 30 minutes to tear down afterward
- Allow public attendance
- Livestream event – requires County IT support
- A/V requests/needs: microphones for each candidate and moderator, soundboard, video – requires County IT support

The policy the Board approved in the previous agenda item would be in effect. Under the umbrella policy, the County would not offer any live-streaming services for non-County uses, but staff could record the meeting and offer the recording to the user afterward. The Manager noted that the Livestream uses the County logo/seal and should not be used in a way that suggests County endorsement.

Commissioner McCall questioned the Chamber's Livestream request since it is open to the public to attend and because it is not offered to other non-County groups.

Commissioner Guice assumed the Chamber requested the use of Commissioners' Chambers specifically due to the live streaming capabilities. If that is no longer allowed, they will more than likely choose another location, like the Library's Rogow Room because it is a bigger venue.

Chairman Chappell referred to the policy the Board just passed and stated he did not want to start making exceptions to a new policy.

Commissioner Chapman moved to approve the Chamber's request to use Commissioners' Chambers applying the new policy, seconded by Commissioner Guice. The Manager offered to contact the Chamber and inform them about the new policy and find out whether they still want to use the room based on the new policy. **The motion was approved unanimously.**

MANAGER'S REPORT

The Manager reported the following:

- Congratulations to David Morrow for his 12 years of service on the Transylvania County Board of Elections. He was recently recognized for his service by former Transylvania County Elections Director and current Executive Director of the NC State Board of Elections Karen Brinson Bell.
- The County continues to work with the District Attorney's Office on two animal cruelty cases. Staff will be presenting the Commissioners with proposed updates to the County's Animal Control Ordinance at an upcoming meeting.

Commissioner McCall asked for an update on the County's application to offer a license plate agency. The Manager reported she has not received a response from the State yet on the County's application, but the staff is moving forward to make sure all other elements are in place, such as modifying space and hiring the appropriate personnel.

PUBLIC COMMENT

Kathe Harris: Ms. Harris serves on the County and Regional Councils on Aging and reported that she is a former recipient of services from Adult Day, formerly KOALA. She thanked the Commissioners for hosting a presentation from Adult Day representatives. She felt the Commissioners listened with respect

and empathy. She spoke in support of a very urgent need for adult daycare in Transylvania County and asked the Board to consider supporting this effort as well.

Al Vissers: Mr. Vissers thanked the Board for their support of the adult daycare program. He shared that his family has also used their services. He felt he needed to do what was necessary to keep the program running because it is vital to citizens that need it. Mr. Vissers is also a member of the County Council on Aging.

Bruce Gleasman: Mr. Gleasman reiterated his comments from the first public comment period about considering the use of software, such as Zoom, to conduct court. He noted that the pandemic has caused private businesses to reconsider their overhead costs since so many employees have been able to work from home, and thus he implored the County to consider the same concerning the courts. This would save the County and taxpayers millions of dollars by not having to build a new courthouse. Mr. Gleasman also commented about the fire department audits and suggested the best way to solve the issue would be to perform in-house audits by fire department staff.

COMMISSIONER'S COMMENTS

Commissioner Chapman reported that he continues to receive emails from citizens with questions and concerns about the Ecusta Trail. He asked Chairman Chappell to consider getting an update from the Ecusta Trail representatives in a public meeting to help answer these questions.

Commissioner Chapman also asked if staff would contact HCA about the status of the building that Adult Day resides in. He wondered if another healthcare provider, like Park Ridge, might be interested in taking over those services.

Piggybacking on Commissioner Chapman's comments, Commissioner McCall stated that society should care for those who cannot care for themselves (children, elderly, disabled). She stated that HCA made promises to this community that services would not change, and everyone is disappointed in the outcome. She also wondered if another healthcare provider would be willing to take over the Adult Day program.

Commissioner Guice agreed with the comments on the Adult Day program. He noted the only relationship HCA has with Adult Day is by leasing the building. He was eager to explore ways to address this need and ensure its sustainability. His family has benefitted through their services, and he did not wish to see it go away. Commissioner Guice also agreed to have the Ecusta Trail representatives give a presentation to provide current updates on the status and plans for its development in Transylvania County.

Commissioner Dalton stated that HCA agreed to maintain a certain level of service within their contract, and they should be held to what they agreed to. He strongly felt the Adult Day program should be maintained. He noted that Ecusta Trail representatives gave a presentation to the Board last fall, but it was very vague.

Chairman Chappell asked the Manager to schedule a meeting with Ecusta Trail representatives, but in the meantime, he asked Commissioners to submit any questions they have or have received from citizens to the Manager so they can be prepared to answer them.

Chairman Chappell thanked staff for the amazing job they do gathering information for the Board so they can the best make decisions for the citizens.

ADJOURNMENT

There being no further business to come before the Board, **Commissioner McCall moved to adjourn the meeting at 6:50 p.m., seconded by Commissioner Chapman and unanimously approved.**

Jason R. Chappell, Chairman
Transylvania County Board of Commissioners

ATTEST:

Trisha M. Hogan, Clerk to the Board