

Unsealed by the Board of Commissioners on 02/12/2024.

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**October 12, 2020 – CLOSED SESSION**

Per NC General Statute 143-318.11 (a) (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, closed session was entered into at 5:55 p.m. Present were Chairman Hawkins, Commissioners Chappell, Dalton, Guice and Lemel, County Manager Jaime Laughter, County Attorney Julie Hooten (participating via Zoom meeting software), Public Health Director Elaine Russell, and Clerk to the Board Trisha Hogan.

The Board of Commissioners consulted with the County Attorney and staff to determine what is within the County's legal purview to regulate an upcoming outdoor concert series that is occurring during the ongoing COVID-19 pandemic.

Commissioners shared their concerns about various aspects of the event which are many of the same concerns expressed by citizens of the Glen Cannon community – security, egress, traffic, noise, health, sanitation, potential for increase in COVID-19 cases, social distancing, crowd control, etc. Although they understood that a private property owner is exercising his right to use his property how he sees fit, Commissioners were concerned about the potential health and safety risks the event poses during this pandemic.

The County Attorney informed the Board that these drive-in types of concert events have been held in other communities across the State. There is an exemption in the Governor's Executive Orders that allows for mass gatherings if participants remain in their vehicles unless they are using restroom facilities or getting food. When people exit their vehicles for this purpose, they are required to wear masks.

The County's Mass Gathering Ordinance is clear that events sponsored by nonprofits are exempt from obtaining a permit. Additionally, the County's Noise Ordinance exempts the event because a nonprofit is sponsoring it.

The County's only remedy to regulate this event is through Health Department regulations. From an environmental standpoint, the event must be in compliance, and it is the event holder's responsibility to communicate with the Health Department on health-related issues like food and sanitation. The pandemic does not give them a free pass from complying with such regulations. Unfortunately, the Health Department has yet to hear from the concert planners. The Health Director informed that her staff would contact the event holder and communicate with them that they must have plans for providing food and restroom facilities and that the Health Department is willing to work with them to ensure compliance set forth in the Governor's Executive Orders.

As for the residents of Glen Cannon, their remedy for any issue that occurs, such as an event-goer trespassing onto their property, is to contact law enforcement. Additionally, compliance with other regulations can only be gauged after the first night of the event.

The Manager shared that staff has encouraged the concert planner to consult with the Sheriff's Office, Fire Marshal's Office, and the Health Department for compliance governance.

Commissioners instructed the Manager to reach out to the property owner and concert planner and see if they would be amenable to participating in a conference call via Zoom with County officials – Manager,

Health Director, a Commissioner, Sheriff, Fire Marshal – so that the County can get some answers to alleviate any concerns they have.

To be clear, Commissioners stated that no one involved in the planning of this concert appears to have broken any laws and the County does not intend to stop the event unless there is an enforceable issue presented; however, due to concerns expressed by citizens and the fact that the event is occurring during an ongoing pandemic, the County has cause for concern due to their lack of communication on compliance with health regulations and for the overall safety of the citizens of Transylvania County.

In the meantime, at the request of Commissioners, the Manager will continue to seek guidance from the State on these types of events. The Executive Orders and how the State intends to apply them are unclear.

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

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Jason Chappell, Chairman  
Transylvania County Board of Commissioners

ATTEST:

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Trisha M. Hogan, Clerk to the Board