

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
November 25, 2019 – REGULAR MEETING

The Board of Commissioners of Transylvania County met in regular session on Monday, November 25, 2019 at 6:00 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 6:05 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

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

Davis Whitfield-Cargile: Mr. Whitfield-Cargile addressed Commissioners in reference to the agenda item *Professional Architectural Services for Courthouse Analysis*. He reminded Commissioners when they paused their decision to build a new courthouse facility on Morris Road that they challenged citizens to help the County be part of the solution. Thus, a citizens' committee was formed to find a downtown solution. Mr. Whitfield-Cargile reported the committee realized that the program for the Morris Road site would fit adjacent to current Courthouse on County-owned property. He endorsed the County seeking apples-to-apples comparisons on potential sites, but questioned the decision to use Moseley Architects. He felt that when the Board made its decision to move ahead with the Morris Road option, it was because Moseley Architects had only given them two options. According to Moseley Architects at that time, the downtown option did not fit the needs for a new facility. Mr. Whitfield-Cargile encouraged the Board to get a fresh perspective from another architect. In terms of the specifics of the proposal, he felt it was important that the contract spell out deliverables that are expected by the Board. The current proposal does not appear to do that. Additionally, the proposal mentions the architect's engaging with stakeholders which the Board of Commissioners has yet to identify. Mr. Whitfield-Cargile encouraged the Board to move with the comparisons and stated that he and members of the citizens' committee would be happy to work with the County to find a solution.

John McClung: Mr. McClung addressed Commissioners regarding the subdivision of lots. He provided a handout to the Board prior to the meeting. Mr. McClung is the President of the Indian Lake Estates Home Owners Association (HOA) and he intended to speak on behalf of the Indian Lake community and

specifically, two of their residents who own a house and five surrounding lots in their community. The six HOA fees they have been paying have become a financial burden. In 2002, they combined the lots into one hoping to lessen the burden. They now wish to re-divide them into the original six lots; however, the County's Planning and Community Development advised them this action is unlikely due to a change in the regulations regarding new subdivisions. The people in this community see the action differently – restoring the lots to what they were when the community was created. Being able to re-divide the lots would allow the couple to sell the lots, thus reducing their HOA fees and adding to the County's tax base. Mr. McClung said the community would appreciate any help the Board of Commissioners could provide to this couple and the community in resolving this issue.

Ellen Harris: Mrs. Harris spoke to Commissioners in reference to the Courthouse. She is a local architect specializing in historic buildings. She thanked the Board for their continued interest in setting the options for the future of the Courthouse. She was part of the committee that Mr. Whitfield-Cargile referred to earlier and is therefore familiar with their work. Ms. Harris pointed out that in the whole course of studying the Courthouse for many years, the public input has been after-the-fact and therefore not part of the process. She stated public participation is extremely important going forward because they have value to lend to the process. She noted that she carefully read the Manager's agenda memo and Moseley Architect's proposal and suggested prior to signing any agreement that the Board seek further specifics on their proposed plan of work and the deliverables. The comparisons were not clearly outlined in their scope of work.

AGENDA MODIFICATIONS

There were no agenda modifications from Commissioners or staff.

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

CONSENT AGENDA

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

The following items were approved:

DISCOVERY, RELEASE AND MONTHLY SETTLEMENT REPORT

Per NC General Statute § 105-312 (b), it is the duty of the Tax Administrator to see that all property not properly listed during the regular listing period be listed, assessed and taxed. The Tax Administrator shall file such reports of discoveries with the Board of Commissioners. Per NC General Statute § 105-381 (b), it is the duty of the Tax Administrator to provide a monthly report to the Board of Commissioners of the actions taken by the Tax Administrator on requests for release or refund, which shall be recorded in the minutes. For October 2019, tax dollars released totaled \$4,086.09 and there were \$756.31 in refunds. Commissioners approved the Discovery, Release & Monthly Settlement Report for October 2019.

DONATION OF SURPLUS PROPERTY TO ROSMAN MIDDLE-HIGH SCHOOLS LIBRARY

The Manager declared metal shelving units as surplus. They did not sell during the most recent surplus auction. Purchasing Agent Jennifer Galloway found a use for the shelving units by the Rosman Middle-High Schools Library. NC General Statute § 160-280 allows a county to donate surplus property to another governmental unit after posting public notice for a period of at least five days. The Finance Department has met the posting requirements and requests donation of the shelving units to Rosman Middle-High Schools Library via approval of Resolution #34-2019. Commissioners approved Resolution

#34-2019 Approving Donation of Surplus Metal Shelving to Transylvania County Schools – Rosman Middle/High Schools Library.

RESOLUTION # 34-2019
Approving Donation of Surplus Metal Shelving to Transylvania County
Schools – Rosman Middle/High Schools Library

WHEREAS, Transylvania County has declared metal shelving units as surplus and they have been removed from service; and

WHEREAS, the County Manager has declared the items surplus and requested the Transylvania County Board of Commissioners convey the surplus shelving units to Transylvania County Schools – Rosman Middle/High Schools Library at no cost; and

WHEREAS, North Carolina General Statute §160A-280 allows the County to donate surplus property to another governmental unit within the United States upon posting public notice at least five days prior to the adoption of a resolution approving the donation; and

WHEREAS, Transylvania County has met the posting requirements outlined in North Carolina General Statute § 160A-280;

NOW, THEREFORE, the Board of Commissioners of Transylvania County does hereby approve the donation of metal shelving units to Transylvania County Schools – Rosman Middle/High Schools Library at no cost.

This the 25th day of November, 2019.

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

REQUEST TO RELEASE FUNDS FOR NEW VOTING EQUIPMENT

The NC Legislature decertified the Board of Elections' current voting equipment (the iVotronic Voting System) effective December 31, 2019. The Board of Elections is mandated to replace existing ADA voting equipment prior to January 1, 2020 with vendors certified by the NC State Board of Elections. This obligation will require the purchase of voting equipment that will meet ADA requirements. The ES&S EVS 5.2.2.0 voting system was certified on August 23, 2019 by the NC State Board of Elections. Public demonstrations were conducted on September 12, 2019 in Haywood County and November 12, 2019 in Transylvania County. The funds have been reserved for the pending purchase. The Board of Elections recommended the purchase of the ES&S ExpressVote ballot marking device and supporting software. The system was successfully tested during the 2019 municipal election in the Brevard #1 precinct. The expected cost for Phase II is \$155,753.50. Commissioners authorized the release of the earmarked funds for the purchase of the new voting equipment.

PRESENTATIONS/RECOGNITIONS

2019 RURAL ADVOCATE OF THE YEAR

The Manager shared how important the role of a County Commissioner is to local government. Particularly in North Carolina, so much of what happens in local government is dictated at the State level. It therefore becomes critically important for counties that Commissioners take on the role of advocacy in State government. Transylvania County is fortunate that many County Commissioners have taken on that role in different ways.

This year one individual Commissioner was recognized as the 2019 NC Rural Advocate of the Year at the NC Rural Assembly – Chairman Mike Hawkins. The Manager shared the statements read by the NC Rural Assembly during the presentation of the award to Chairman Hawkins.

Mike is in his fifteenth year as a Transylvania County Commissioner and eighth year as the chair of that board. During his time Transylvania County has engaged issues facing all of rural North Carolina, and has a reputation for innovation in areas like economic development, education, early childhood development, library services, public safety, social programs and more.

He and his wife Claudia raised their daughter Allison in Transylvania County, and professionally, Mike is president of Pisgah Enterprises, which owns and operates real estate properties and the Pisgah Fish Camp restaurant in Brevard.

Beyond his local work as a business owner and county commissioner, Mike is also a regional advocate for rural issues in western North Carolina. He is vice chair and executive board member of the Land of Sky Regional Council of Governments, and is a noted leader in western North Carolina economic development and social support initiatives. He currently serves on the steering committee planning the myFutureNC educational attainment initiatives for western North Carolina. Last year he received Land of Sky's Robert Shepard Award, for exemplary service by an elected official for all the citizens of western North Carolina.

On the statewide level, Mike is a member of the NC Travel and Tourism Board, and an executive board member of the Economic Development Partnership of North Carolina. In this role at EDPNC, he serves as the chair of the Rural Work Group, which focuses on rural economic issues across North Carolina and has launched two successful statewide "Energizing Rural NC" conferences focused on rural economic development.

In short, he is a powerful thought and action leader on the local, regional and state level.

From the start of the Rural Counts advocacy program, Mike has been an active leader in driving local and statewide participation. He has been instrumental in encouraging attendance at local Rural Counts meetings, has travelled to Raleigh for Rural Day, and has been a consistently powerful voice for the issues at the heart of the Rural Counts platform.

Mike has a long list of awards and accolades, but we think none speak more highly than the words of those who nominated him for this award. I need to tell you that Mike received a record number of separate nominations for a Rural Center award. Among the things his nominees had to say:

"Mike Hawkins' commitment to rural North Carolina is second to none. Mike's enthusiasm, dedication, and drive is truly inspiring."

"As a county leader, he encourages collaboration in the community to achieve a long term vision of economic and social vibrancy. He helps showcase the connection that community issues such as economic development, housing and community needs have to one another in creating the fabric of a rural community's success. He emphasizes the importance of civil discourse and engagement in all of his efforts to bring community together."

"Mike works around the clock for his community and for rural NC and deserves this award."

The Manager was equally impressed with how all of Chairman Hawkins' work represents Transylvania County and elevates our reputation across the State. She was inspired, not only by being present when he received the award, but by being able to see the long-ranging impact of his work across the State. She hopes the public understands that when County officials attend meetings and conferences such as these, Commissioners are changing how to approach issues at home through their work which is a significant investment.

Chairman Hawkins stated that the NC Rural Assembly gave Transylvania County the opportunity to talk about all the good things going on here in front of over 500 people. He pointed out there are many people deserving of this award. He accepted it on behalf of all those who have had a hand in the positive things going on in Transylvania County, as well at the regional and State level. He was reminded of how lucky we are.

Chairman Hawkins gave a brief report on the NC Rural Assembly:

- Gathering of people at all levels of government and private sector involved in rural issues
- Event always eye-opening about the challenging issues that face rural North Carolina – education, infrastructure, health services, etc.
- Key takeaway is the importance of being proactive, collaborative, and having an orientation toward action
- Inspired and learned a lot

The Manager added there is value in the connections County officials make to resources that help lay the groundwork for success in future projects.

Commissioner Cathey commented that the citizens of Transylvania County are lucky to be served by Chairman Hawkins. Commissioner Lemel congratulated Chairman Hawkins on his award and stated it is an honor to serve alongside him. Commissioner Guice agreed, and called Chairman Hawkins a true leader. He stated Chairman Hawkins is very committed to improving conditions in Transylvania County and the region. Serving the County is much more than attending County Commission meetings. He was appreciative of Chairman Hawkins' leadership and friendship. Commissioner Chappell echoed all the comments made. Commissioner Chappell's profession involves workforce development. He said in his work across the State, Chairman Hawkins is known for his work in economic development. He believes Chairman Hawkins is a wonderful advocate for Transylvania County and was appreciative of their friendship.

Chairman Hawkins thanked Commissioners for their kind words. He said it is a privilege to serve the citizens alongside them.

OLD BUSINESS

HVAC REPLACEMENT PROJECT – COMMUNITY SERVICES BUILDING

Assistant County Manager David McNeill presented this item. He reported that in FY 2019 Budget the Board of Commissioners approved \$450,000 to replace the HVAC system in the Community Services Building, plus \$39,000 for design and engineering work. The project budget was based on cost projections by the architect. Staff worked with the architect and engineer to develop specifications and bid documents for a highly efficient heating and cooling Mitsubishi VRF Ductless Heat Pump System (Mini-Split) that provides for management of room temperatures in each office space. Staff received two bids on the project, but they were rejected due to statutory requirements of a three-bid minimum. Staff re-

bid the project and received two bids. The base bid for the proposed HVAC system was \$960,000 and again, all bids were rejected.

In an effort to reduce the cost, staff worked with the architect and engineer to develop specifications and bid documents for a traditional zoned HVAC system. The zoned system is energy efficient but limits temperature management to zones controlled by strategically placed thermostats. This system is similar to other HVAC systems in County buildings. Staff bid the zoned HVAC System project and received two qualified bids, with the lowest being \$682,000. If Commissioners move forward with this project as bid, there would be a project budget deficit in the amount of \$397,880.

Below is a detailed breakdown of the project budget:

Project Budget		
Base Bid	\$682,000	
Alternate 1	\$3,000	Access ladder for future maintenance
Alternate 2 (Staff recommends including funding and negotiating removal once drop ceiling and existing equipment are removed to allow for visual inspection)	\$40,000	Plaster removal from hallway ceiling
Unit price	\$2,200	Light fixtures, as needed, \$220 each x 10
Cost Outside Contract		
McCall Tech.	\$1,710	Security camera removal and replacement
Johnson Controls	\$12,800	Fire alarm code requirement upgrades
IT/Maintenance	\$8,295	Temporary relocation of staff during construction
Architect/Engineer	\$10,000	Hourly rate, not to exceed
Contingency	\$76,000	10% building age/unknowns
Total Project Cost \$836,005		

Available Funding		
FY 20 Project Budget	\$438,125	Budget \$450,000 minus design fees
Project Deficit	\$397,880	

Options to Cover Deficit	
Fund Balance assigned for emergency maintenance	\$200,000
FY20 Budget for roof replacement on Community Services Building (project delayed until completion of HVAC replacement to allow for removal of HVAC roof units; re-budget for project in FY 21 if funds are reallocated; HVAC project completion in 175 days pushes roof replacement to FY 21)	\$143,000
Contingency – current balance	\$137,000

Mr. McNeill requested direction from the Board on how to move forward. If the decision is to move forward with the project, the Board should decide on how to cover the deficit. Mr. McNeill also requested authorization to negotiate with the bidder to determine if there is an opportunity to achieve savings in the project.

Commissioner Lemel inquired about the disparity between the estimate and actual project cost. Mr. McNeill was unsure other than the current climate of the construction market, which is also evident by the low number of bids received. He noted the County is experiencing the same cost escalation with other projects as well.

The Manager pointed out the County's Project Management Team discussed whether it made sense to replace only those units that were inadequate. The Team did not feel that was the best option because of the potential long-term risk of cost escalation, as well as the lost cost benefit of replacing all the units at once. Mr. McNeill added that breaking the project up delays the roof project further because the HVAC units are located on the roof.

Commissioner Cathey inquired about a line-by-line breakdown of the base bid. Mr. McNeill stated the bidder provided a total bid amount. During negotiations, it would be staff's intent to review their subcontractors' lists and costs.

Commissioner Guice asked how many units this project intends to replace. He wanted to know if the reason for the replacement was due to the condition of each unit or because of regulatory changes related to the types of units. To him, the cost seemed too high. Mr. McNeill reported that all the units, with the exception of one, are R-22 units and are either aged or in need of repair. With that said, all the units are

operational except one in Building Permitting. The department is using heat strips as its heating source. This area needs to be addressed soon. Mr. McNeill pointed out that Commissioners could opt to replace units only when they become nonoperational. This option comes with the risk of additional costs, but it addresses immediate needs.

Commissioner Guice asked if there are funds set aside to address heating and cooling needs at the Courthouse. Mr. McNeill responded that this particular project only addresses the Community Services Building. He reported, however, that during a hail storm earlier in the year, several R-22 HVAC units were damaged. Staff is currently working to combine the insurance funds received from that claim with the funds budgeted last year to replace as many R-22 units as possible at other County buildings. Staff has been successful in replacing units at the Courthouse and Tax Administration. Some of the insurance funds will be made available for this particular project. Mr. McNeill felt that staff was making progress with replacing units where possible. However, he noted that he received notice today that another steam leak occurred in the boiler at the Courthouse.

The Manager recapped the options before Commissioners. The Board could opt to address the most immediate needs, i.e. those units not working. The risk with this option is that the replacement of units will be priced individually when needed, thus adding to the cost. The current life of the R-22 units is unknown; they would be replaced as needed. There are HVAC needs not only in the Community Services Building, but also the Courthouse, so the Board should expect this need for funding to be part of an ongoing conversation. Three or four years ago, staff began to inspect the older units for potential replacement, but the regulatory requirements surrounding the R-22 units have advanced the need to replace additional units.

Mr. McNeill added that over a period of years, the maintenance of these units has essentially been completed as a patchwork repair job resulting in crossover of different systems from department to department. If addressed individually, the unit in question may support different departments making it difficult to replace due to the duct work serving several zones.

Commissioner Lemel noted that the insurance claims mentioned earlier are not included in the budget for this project. Mr. McNeill explained that the insurance claims received for the two units damaged during the hail storm were small due to the depreciation of the units.

Commissioner Lemel considered the options to cover the deficit noting there is a potential of \$480,000 available. She inquired about the impact of using these funds knowing there are seven months remaining in the fiscal year. The Manager was not suggestive of using contingency funds because of the risk of not having funds to cover other items such as a professional architectural analysis, another item on the agenda this evening. The fund balance for emergency maintenance was started a few years ago as a way to cover emergencies. If these funds are allocated toward this project, the Board could run the risk of no funds being earmarked to cover emergencies like the boiler leak at the Courthouse that occurred today. Commissioners would have to consider using undesignated funds to fill those needs.

Commissioner Lemel inquired about the amount of unassigned fund balance available. Finance Director Jonathan Griffin reported that based on the financial statements that have been submitted to the NC Treasurer as of June 30, 2019, unassigned balance totaled approximately \$4.5 million dollars. The total overall general fund balance was \$33 million.

Commissioner Lemel suggested upping the emergency maintenance fund balance in future years.

Commissioner Lemel moved to reallocate funds up to \$397,880 out of the fund balance assigned for emergency maintenance, the FY 20 roof replacement amount, and what is needed out of

contingency, pending authorizing staff to enter into negotiations and seeing if there is any opportunity to lower the base bid amount, along with any consideration of possible application of insurance funds, seconded by Chairman Hawkins. Chairman Hawkins directed a question to Finance Director Jonathan Griffin about the County's capital fund balance. Mr. Griffin reported that for the current budget the Board has authorized approximately \$2.4 million to go into reserves for future capital projects. The Board has also authorized specific line item capital funding. The Manager added that at the end of the fiscal year, rather than funds being placed into fund balance, Commissioners could authorize in advance that these funds be used toward the existing capital improvement. Commissioner Guice emphasized that the capital fund balance was started to save for future projects to include the Courthouse. Staff confirmed. Commissioner Guice was not supportive of using the fund balance for emergency maintenance. He was supportive of reallocating the funds from the roof replacement toward this project due to the timing. He felt it was necessary to find another way to make up the entire difference. The Manager reminded Commissioners of their option to pull from undesignated fund balance in the event of an emergency. Commissioner Guice questioned the ability to negotiate a sealed bid. Mr. McNeill explained that staff would further discuss the alternates, specifically. Commissioner Guice stated it is important that Commissioners understand fully how these dollars will be spent. He agreed with Commissioner Cathey's earlier statements about being able to see a breakdown of the base bid so that Commissioners could understand the project in a holistic way. Mr. McNeill explained that staff has yet to meet with the lowest bidder to understand a breakdown of all their costs. The Manager stated that staff could provide the architectural plans that show the number of units being replaced, as well as the full bid package so that Commissioners are clear on the scope of the project. Staff would add the item to the December 9th agenda for reconsideration. Commissioner Chappell asked staff to also provide a breakdown of the fund balances to understand other options to pay for this project without impacting contingency and emergency funds. He also suggested, as he has in the past, piggybacking with other local educational institutions on HVAC replacements to help lower the cost if possible. Debate ended and Chairman Hawkins called for a vote. **The motion failed unanimously.**

Chairman Hawkins inquired about the direction the Board wished to give staff.

Commissioner Cathey requested a detailed breakdown of the base bid.

Chairman Hawkins recalled previous discussion of the R-22 issue and a plan to replace them systematically. He understood Commissioner Guice's concerns about having such a large expenditure on one building and where that fits into the overall plan for all County buildings.

Commissioner Guice suggested further discussion in a workshop setting because the County has other issues than the Community Services Building in terms of HVAC units, etc. He felt it was appropriate to study the overall issue to give Commissioners a better idea of a plan to move forward.

Chairman Hawkins summarized Commissioners' suggestions that staff present to the Board a holistic way to address HVAC issues across all County buildings, including how the Community Services Building fits into the plan. He noted there is one unit that is not working at all. He asked if one option might be for staff to provide a bid for the one unit and move on replacing it or whether Commissioners wanted to wait and deal with it as a whole.

Commissioner Guice did not support repairing or replacing one unit at this time. He preferred staff provide additional information on the R-22 units at the next meeting and hold a capital workshop later to address needs across the spectrum.

Mr. McNeill informed Commissioners that staff is actively replacing units in various buildings through funds set aside in the current year's budget. This includes the Courthouse, Tax Administration, Library,

etc. It just so happened a hailstorm damaged the units at the Community Services Building that made it advantageous to maximize insurance claims by replacing the units. He did not recommend replacing the one unit in Building Permitting as a standalone effort.

Commissioner Guice also wanted information on the R-22 units. He has learned there could be a work-around coming forth that might prevent the need for replacing the units altogether. The regulatory issues surrounding the R-22 units not only impact local government, but private citizens and businesses as well. Mr. McNeill explained that R-22 units do not have to be replaced because they are R-22 units. The issue is limited access to the R-22 refrigerant. There are options available with drop-in refrigerants, etc., but, nonetheless, it will be advantageous for staff and the contractor to determine the working order of each unit and either make the drop-in switch or replace the unit altogether.

Commissioner Guice asked how the County found itself in the position of needing to replace all of these units at the same time and whether previous Boards had a replacement schedule in place because the onus is now on this Board to deal with the challenges. The Manager stated this plan is exactly what staff is trying to address. When she came on board as the County Manager, she began to specifically look at ensuring a maintenance schedule was in place along with a funding plan.

Chairman Hawkins called for an end to debate.

Commissioner Cathey moved to table this item to a future meeting, seconded by Commissioner Lemel and unanimously approved.

SCHOOL BOND CONSTRUCTION ADVISORY COMMITTEE UPDATE

Chairman Hawkins and Commissioner Chappell are members of the School Bond Construction Advisory Committee dealing with the school construction program. They provided an update on the Committee's meeting from last week.

Commissioner Chappell reported the Committee received an update on the Rosman High School site plan. The original plan included a potential walkway over the roadway resulting in the closure of the State road. The Town of Rosman does not support that option so it is off the table for consideration. Another option was presented that may achieve some cost savings. There will also be major changes to the main gym at Brevard High School, along with additional modifications to the coaches' offices, weight room, and cafeteria.

There was also discussion about the status of the school construction contracts based on the Board of Education's concerns of attaching the soils testing report as an addendum. The Attorney representing the County feels it is in the best interest of the County for the report to be included to prove site readiness.

Commissioner Chappell said there were earlier talks about the feasibility of a combined campus with Blue Ridge Community College. Transylvania County Schools may be willing to partner in the future, but not as part of the bond project.

Chairman Hawkins said the meeting included good conversation. The Committee has met several times, but this is the first meeting where the members have had a chance to talk about actual construction. Very few members of the public have been attending the meetings. The Committee has a lot of complex work ahead of it that will be very important. The Committee meets the first Thursday of each month at 5:00 p.m. He encouraged the public to attend.

Chairman Hawkins piggybacked on Commissioner Chappell's comments about there being significant discussion on the architectural contracts. He said it is a point of frustration for the Board of Education

because they cannot move forward with the work until the contracts are signed. From the County's perspective, there is a question about the wisdom of entering into such a contract before the soils testing report is complete. The Attorney representing the County gave the Board of Commissioners guidance on this matter. He advised against signing the agreement prior to the soils testing results being known. Without it, the Attorney is concerned about how it would impact the entire contract with the construction-manager-at-risk (CMAR) due to maximum costs. (The Board of Commissioners may call a special meeting following the completion of the soils report to approve the contracts.) Additionally, the Board of Commissioners has assigned the Board of Education operational responsibility. This is an unusual arrangement that makes the Board of Education an agent of the County. It is important to note this because, as the County's agent, they will be required to provide documentation to mitigate any potential exposure issues over the course of the project. This is especially important given the size and complexity of this project. There are mechanisms within the Memorandum of Understanding the Board of Commissioners could exercise if the Board of Education does not provide the appropriate and requested documentation.

Commissioner Guice pointed out the Board of Education's Attorney recommended a specific addendum that the County's Attorney advised could potentially negate the maximum price plus 5% contingency in the contract. Therefore, he thought it would be unwise to sign the contract until the soil sample report was complete. Otherwise, if the soils report is negative, the project cost could be more than the citizens approved in the bond referendum. Commissioner Guice stressed that the Attorney is looking out for the best interest of the County.

Commissioner Cathey agreed with the recommendation. As a resident of Rosman, he stated the soils are a major issue there. He compared soils in the area to quicksand.

Commissioner Guice stated it is extremely important, since the Board of Education is acting on the County's behalf, that they provide the documentation as requested. He stated this is a partnership which the Boards are managing on behalf of the citizens. He noted that staff has asked for information on behalf of the Board that the School System has yet to respond to.

Chairman Hawkins instructed the Manager to repeat the request for information tomorrow. Otherwise, the Board may have to take measures spelled out in the Memorandum of Understanding.

Commissioner Chappell said he understands that the School System staff is, in fact, working on gathering the requested information. The Committee suggested the formation of a work group so that everyone has an understanding of expectations moving forward.

For the benefit of the public, the Manager stated that when the County is audited for its construction projects, staff is required to show an extensive amount of documentation. Examples include affidavits of publication for the requests for proposals, minutes of Board meetings where related items were approved, responses from the requests for proposals/qualifications, contracts, invoices, sales tax information, time sheets for subcontractors, etc. Almost anything related to the project is subject to review.

Chairman Hawkins finalized the discussion and stated that the Committee is doing great work.

PROFESSIONAL ARCHITECTURAL SERVICES FOR COURTHOUSE ANALYSIS

The Manager reported that since 2005 detailed analyses have been conducted to inform the decision to build a new courthouse on Morris Road, including a third floor shell for future expansion. Key issues with the historic courthouse have been raised by state and local officials over the years of study and include, but are not limited to:

- Circulation and space challenges that endanger safety of court officials, the public and inmates as required by law
- Inadequate ability to secure inmates and provide confidential access to legal counsel as required by law
- Inability to assure equitable participation in court function for persons with disabilities. While the structure meets the ADA code as of the last major renovation, a person with disabilities must be in court prior to seating of the judge and jury and cannot leave the court room except during official breaks.
- Safety concerns with those waiting for court gathered in hallways due to lack of space

Moseley Architects refined the program study in 2015. The revised program study reflected 60,000 sq. ft. in space needs and was evaluated for cost at the Public Safety Facility site on Morris Road. An optional 30,000 sq. ft. shell space was also proposed to accommodate future growth. The Manager stressed that this full program of work would not fit on the existing Courthouse site without additional property, so it was not evaluated by Moseley Architects; therefore, a reduced size building was considered for the downtown location. At the time, there was no interest by the Board of Commissioners to purchase additional property. To fit the full program, including parking, on the existing property would require additional space. Staff inquired about property downhill from the Courthouse, but at the time it was wrapped up in litigation with the Pickelsimer estate. Assumption was that the property would transfer to Brevard College. Brevard College leadership at the time expressed no interest in selling the property but discussed a possible long-term lease with the County. A long term lease is not advisable for a facility with a lifespan of more than 100 years.

To meet the wishes of Commissioners, the Manager suggested an apples-to-apples comparison of the full program study and the identification of locations in downtown Brevard that could accommodate the full program. There are two potential sites in which the Board can begin to look at comparisons. One site is the existing Courthouse, although the Board would likely need to consider adding surrounding property to protect the historic nature of the existing facility while providing a full program of work. The other site is South Broad Park which is the current location of Child Development and includes a small park and a parking lot. Combining those spaces could accommodate the full program of work, but the site has storm water management issues. The soils are unknown at this time.

The proposal from Moseley Architects before the Board provides an apples-to-apples comparison of the same program of work. Key issues that could arise site to site and that could impact the cost are soils, storm water management, and parking. Both downtown options will likely require structured parking. There is an opportunity to partner with the City of Brevard to address parking and offset some of those costs.

The Manager pointed out there could be additional sites. The assumptions made during the last program review have changed in that the property owned by Brevard College has been sold to a private citizen. The Board of Commissioners may have an interest in this or other lots downtown. The Manager invited Commissioners to inform her of any sites they would be interested in receiving programming comparisons.

The Manager recommended Commissioners consider a scope of work that provides a true comparison of costs. She pointed out the South Broad Park location would likely involve relocating and/or rebuilding Child Development. If the existing Courthouse site is used, court functions would need to be temporarily relocated during construction which is also an added expense. Any other site the Board identifies may have other factors that will need to be taken into account. This should give Commissioners enough information to move forward with a solution to the courthouse dilemma that meets the long-term need.

In addition, the Manager recommended during this process that the Board engage the stakeholder committee that includes court personnel for the purpose of keeping communication lines open. Secondly, Commissioners should engage City leaders, the downtown courthouse committee, etc.

Commissioner Cathey asked if the stakeholder committee included City officials. The Manager replied the stakeholder committee was comprised of courthouse personnel, but the ad hoc courthouse committee includes City leaders. She reported this morning she met with the City Manager, two Councilman, two City Planning staff, and two County Commissioners to specifically discuss navigating these options, including the zoning impacts, storm water management, etc.

Commissioner Lemel wanted clarification on what the Board is requesting from Moseley Architects. This action does not commit the Board to the design. It only takes the original proposal and determines whether it can be placed on various sites and the cost comparison for each. The Board retains the ability to adjust the design and the square footage, but this process allows the Board to narrow down a site. The Manager confirmed. Moseley Architects would not modify the program study at this time. Design would come with a full scale architectural contract. The cost of proposal from Moseley Architects is \$28,000 - \$18,000 of which is for engineering and soils information that would distinguish the sites from each other. Again, she stressed the cost difference will be seen in soils remediation, storm water management and parking solutions.

Commissioner Lemel asked how this project would be impacted by using another architectural firm. The Manager stated the Board would need to issue another request for qualifications. In addition, they would need to determine whether to use the same scope of work or revisit the needs study altogether. To revisit the needs study would cause significant delays because it requires resurveying all the court stakeholders. The question is how confident the Board is with the current program study.

Commissioner Cathey inquired about the study that was conducted for the current Courthouse site. The Manager stated what was conducted previously for that site was not the full program to meet long term needs. The space limitations on that site were used to constrain the program of work for that site making the site a temporary solution.

Commissioner Guice thanked those that spoke during public comment and their continued interest in this project. He informed the public that Commissioners and staff have been meeting with various officials and stakeholders to gather information and Commissioners have heard the desire of the public to keep the facility downtown. They have visited other courthouse locations and inquired about the challenges other counties faced. He stated this is the first time this particular Board is having an in depth discussion about the Courthouse. He emphasized this is the beginning of this process. Commissioner Guice stated that while the sites have challenges, they need to remain under consideration. He stated that the property downhill from the Courthouse would be large enough to accommodate the programming study and would not require additional purchase of property for parking. It is privately owned, but he felt it should be considered and the Board should determine what it would take to purchase. He emphasized this Board has made no final decision and he asked the public to share with the Board other properties that should be considered. He agreed with the public commenter that the Board needs to be specific in its request to the architect in order to make the best comparisons. He also wants to ensure the Board has received the maximum level of participation. Commissioner Guice stated this project will impact the community more than any other. He shared that the historic record shows a lot of attention has been paid to this issue over many years.

Chairman Hawkins suggested not taking action on this item tonight. He asked staff to examine the question of the potential availability of the site below the Courthouse and what would be involved in

including it in the apples-to-apples comparison. In addition, Moseley Architect needs to be more specific about deliverables. He asked staff to bring back a recommendation at the next meeting because the Board is serious about moving forward. He believes it is this Board that needs to make the decision.

Commissioner Cathey commented that a courthouse speaks to the character of a community. He hopes the design will mirror the image people have when they think of what a courthouse should look like.

The Manager reported she received updated cost figures. The cost has increased from \$32 million to \$41 million on the same program of work.

NEW BUSINESS

AGREEMENT WITH TEAGUE, CAMPBELL, DENNIS & GORHAM, LLP FOR CONTRACT ATTORNEY SERVICES

The Board of Commissioners approved keeping in-house County Attorney Misti Bass on staff pending establishing a county attorney contract. The RFQ was released last fall with no responses. The re-release netted two responses that have yet to be reviewed. Ms. Bass' last day of employment with the County will be December 8. Teague, Campbell, Dennis & Gorham, LLP has been functioning as the backup/overflow attorney for the County. The firm is familiar with the County's ongoing legal work and is willing to fill in following Ms. Bass's departure until a decision is made on a permanent County Attorney arrangement. The firm specializes in local government, contracting, policy review and human resources. The Board has budgeted \$60,000 for contract attorney services. The Manager stated this arrangement will be reevaluated in three months.

Commissioner Cathey inquired about the responses to the RFQ. The Manager reported the two respondents as being Teague, Campbell, Dennis and Gorham, LLP and local attorney Tony Dalton. In response to Commissioner Cathey, the Manager stated that Mr. Dalton has served as the County Attorney in the past.

Commissioner Lemel moved to approve the representation agreement and appoint Teague, Campbell, Dennis & Gorham, LLP to represent as county attorney with the lead attorney William Bulfer on the contract, seconded by Commissioner Guice. Chairman Hawkins confirmed that staff currently estimates 15-20 hours at the hourly rate. The Manager confirmed. Chairman Hawkins pointed out this is an interim arrangement and the Board will be analyzing how to move forward on a permanent basis. Commissioner Cathey felt it was necessary to hire local. Commissioner Chappell noted this is a different arrangement than past years, but he wanted to evaluate whether this arrangement would work. He agreed that the Board should hire locally when appropriate. For now, he believes this makes sense. Commissioner Guice stated he was impressed with their depth of knowledge of local government issues and he is willing to move forward to determine if it is the best option. Chairman Hawkins thanked County Attorney Misti Bass for her service to the County, the Board of Commissioners and citizens. **The motion was approved unanimously.**

MANAGER'S REPORT

The Manager reported the following:

- Kudos to Parks and Recreation Director Jared Mull from County Management Fellow Kate Hayes for his great presentation to the Connect group last week; Jared's presentation was interactive and allowed participants to become park planners; he provided snacks and served as a great host to the group
- Kudos to both Elections and Solid Waste for #practicingwhatwepreach and finding ways to recycle the old machine carts

- GetSet Toolkit for November launched - Managing Emotions and Tantrums; blog at getset-tc.org for more content on the topic of the month each week
- Christmas in the Park is coming up December 14, 11am-4pm. There will be lots of special guests and fun activities for the family. Purchase wrist bands for \$5 on RecDesk linked to the County website at www.transylvaniacounty.org under Parks
- The Library has partnered with Wild Dog Training 5 Paws Therapy Group to bring our community Paws and Pages Reading. Every 1st and 3rd Wednesday of the month from 4-5pm in the library at youth services, our young readers get to practice their skill sets while therapy dogs in training, like Frankie here, practice their training.
- Rescheduling Notice! Fire Funding Workshops have some rescheduled dates



**All meetings will be held from 6:00 P.M. - 8:00 P.M.
NEW DATES**

**December 10th - Williamson Creek Community Center
(Rescheduled from November 25th)**

**December 12th - Rosman Town Hall
(Rescheduled from December 9th)**

January 6th - Balsam Grove Community Center

January 16th - Quebec Community Center

For more information please contact us at
(828)884-3108 ext 301 or via email: fireinput@tconc.org

- Brevard College had a very successful outing in their first post season bowl appearance beating Carnegie-Mellon by 42-28 and it is said that the loyal fans from Brevard outnumbered those from the opposing team.
- Santa's Elves have nothing on our County Maintenance team. They put up the courthouse Christmas decorations and decorated the tree today. Tree lighting will be at Twilight on Saturday, December 7.

PUBLIC COMMENT

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

Larry Chapman: Mr. Chapman congratulated Chairman Hawkins for his award and thanked Commissioners for the work they do at the State. Mr. Chapman stated that the Courthouse discussion was very disturbing to him because of the use of the word "beginning". He stated this project has more than likely doubled in cost over the last 15+ years. He encouraged the Board to set a timeline because it is a crisis issue that is not going away.

Lee McMinn: Mr. McMinn stated that the last time the Board considered options for a courthouse it was not comprehensive. There has also been no discussion of what to do with the Courthouse if it is no longer used for court functions. He noted there are properties for sale, but it will not be cheap. He asked the Board to take on this project systematically.

Judge Mack Brittain: Judge Brittain stated it is concerning also to him that he heard this process as a beginning step. He noted that a previous Board of Commissioners discussed the Courthouse needs that they still have today when he started practicing law in 1987. He pointed out the decisions have been made and overturned while the situation continues to deteriorate. He stated this process should be approaching a conclusion that addresses the needs of the community.

COMMISSIONERS' COMMENTS

Commissioner Cathey wished everyone a Happy Thanksgiving. He also wished all citizens a Happy St. Andrew's Day, the patron saint of Scotland who founded the modern world.

Commissioner Guice said his use of the word "beginning" was misinterpreted. He stated this is the first meeting this particular Board of Commissioners has had the opportunity to talk about the Courthouse situation since the decision of the prior Board. The Board is not starting the process over, but it is the first time the Board has seriously considered other properties. With this Board, he sees this as the beginning point to solve this issue and meet the challenges ahead.

Commissioner Guice thanked Chairman Hawkins for leadership and his was appreciative of all Commissioners.

Commissioner Chappell thanked Finance Director Jonathan Director for serving in the Manager's stead at the Blue Ridge Community College and presenting to about 900 Henderson County students on government. He said the County is very fortunate to have such brilliant staff and that citizens should be proud of the work they do.

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

CLOSED SESSION

Pursuant to NC General Statute § 143-318.11 (a) (5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease, closed session was entered into at 8:30 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.

The Manager updated Commissioners on property appraisals the Board ordered. Commissioners directed staff on how to proceed with negotiations.

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 Cathey and unanimously approved.

ADJOURNMENT

There being no further business to come before the Board, Commissioner Cathey moved to adjourn the meeting at 8:50 p.m., seconded by Commissioner Chappell and unanimously carried.

Mike Hawkins, Chair
Transylvania County Board of Commissioners

ATTEST:

Trisha M. Hogan, Clerk to the Board