

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
January 10, 2022 – REGULAR MEETING

The Board of Commissioners of Transylvania County met in regular session on Monday, January 10, 2022 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 John Kubis participated remotely via Zoom meeting software.

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

There were approximately 10 people in the audience.

CALL TO ORDER

Chairman Jason Chappell presiding declared a quorum was present and called the meeting to order at 4:02 p.m.

WELCOME

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

PUBLIC COMMENT

The comments made by the public represent the individual speaker's opinion or point of view.

Alice Wellborn: Ms. Wellborn is a former elected official on the Board of Education and currently serves as the president of Transylvania County Democratic Women. She welcomed the transformative grant funds from the federal government that will help find solutions to the County's housing problems and install water and sewer lines along Rosman Highway. She commended the Board for their decision to accept the ARPA funds. Ms. Wellborn pointed out that every Republican in the US Congress voted against these funds, including the representation from North Carolina and the 11th District, funds that this majority Republican Board has referred to as transformative for Transylvania County. She thanked President Biden and the Democrats in the US Congress for their vote to supply these funds to states and local governments.

AGENDA MODIFICATIONS

There were no agenda modifications.

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

CONSENT AGENDA

Commissioner Dalton moved to accept the Consent Agenda, seconded by Commissioner Chapman and unanimously approved.

The following items were approved:

MINUTES

The Board of Commissioners met in a regular session on July 12, 2021. The Board of Commissioners also met in regular session on August 23, 2021 and following met in closed session in which the minutes were sealed. The Board approved the minutes as submitted.

DONATION OF A SURPLUS FOOD WARMER TO ROSMAN HIGH SCHOOL

N.C.G.S § 160A-280 allows the County to donate any surplus property to a nonprofit organization incorporated in the United States. The Sheriff's Office is no longer using a food warmer and thus the County Manager has declared it as surplus. Before donation, the County must post a public notice of its intent to donate the property and then adopt a resolution donating the property at another meeting. The Clerk to the Board published and posted a public notice on December 20, 2021, thus meeting the statutory requirements. The Board authorized the donation of a surplus food warmer to Rosman High School as requested via approval of a resolution.

RESOLUTION # 01-2022 Donation of a Food Warmer to Rosman High School

WHEREAS, The Transylvania County Manager has declared a food warmer in the Sheriff's Office as surplus, and it has been removed from service; and

WHEREAS, the County Manager requested the Transylvania County Board of Commissioners convey the surplus food warmer to Rosman High School at no cost; and

WHEREAS, North Carolina General Statute § 160A-280 allows the County to donate surplus property to a nonprofit incorporated in the United States upon posting a public notice at least five days before 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 the food warmer to Rosman High School at no cost.

This the 10th day of January 2022.

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

LAND OF SKY CLEAN VEHICLES COALITION PARTNERSHIP AGREEMENT

Land of Sky Clean Vehicles Coalition (LOSCVC) is in the process of a redesignation with the Department of Energy and as part of the process is asking to secure agreements with key partners. The financial support of the Department of Energy for this program drives the Coalition's ability to support alternative fueling infrastructure, training, grant writing, and vehicle technology in Western North Carolina. LOSCVC values the partnership with Transylvania County Planning and Community

Development and has asked for support on this project. The agreement does not commit the County to provide any funding and coincides with the County's recent decision to move forward with propane conversion on the transportation vans. The Board approved the Land of Sky Clean Vehicles Coalition Stakeholder Partnership Agreement to support the nation's energy and economic security, by building partnerships to improve transportation energy efficiency and advance affordable, domestic transportation fuels and technologies.

JOINT HISTORIC PRESERVATION COMMISSION ANNUAL REPORT

The Joint Historic Preservation Commission (JHPC) is required by the County ordinance and its bylaws to present an annual report to the Board of Commissioners at the end of each year. Traditionally, the report includes training, projects, community activities, and local designations that have occurred over the last year. According to its bylaws, the annual report is to include an updated inventory list. The report and inventory list were approved by the JHPC during their regular meeting on December 14. The Board accepted the report as presented.

COMMUNITY CHILD PROTECTION TEAM ANNUAL REPORT

The Community Child Protection Team (CCPT) was created by statute whose purpose is to assess selected cases of children being served by Child Protective Services. The CCPT serves to develop a community-wide approach to child abuse and neglect, understand the causes of childhood deaths, identify gaps or deficiencies in service delivery in public agency systems designed to prevent abuse, neglect, and death, and make and implement recommendations for laws, rules, and policies that will support the safe and healthy development of children and prevent future child abuse, neglect, and death. The 2021 Annual CCPT Report identified needs and gaps in service and made recommendations on how to meet those needs and close gaps in service. The Board accepted the 2021 Community Child Protection Team Annual Report as presented.

ACCEPTANCE OF COMPREHENSIVE OPIOID, STIMULANT, AND SUBSTANCE ABUSE PROGRAM (COSSAP) GRANT AWARD

The C.A.R.E. Coalition is a valuable partnership comprised of many diverse community representatives that have contributed to environmental, policy, and systems changes to prevent, address, and reduce substance misuse in the community. In 2021, C.A.R.E. completed a thorough gap/needs assessment and led a strategic planning process with community partners to improve treatment and recovery systems for substance use disorder. This work was made possible through the federal RCORP grant. Establishing therapeutic and reentry support services in the Transylvania County detention center emerged as a top priority from the planning work of the RCORP grant.

The Comprehensive Opioid, Stimulant, and Substance Abuse Program (COSSAP) grant is the next opportunity in this federal support chain. The COSSAP grant allows the Coalition, Sheriff's Office, and Public Health Department to place a mental health clinician and care coordinator in the detention center. Providing these services to the detainees will better equip them with the tools to be stable, healthy, and productive community members upon release, by linking them to care, resources, and services that support successful reentry and decrease criminogenic risk factors. The anticipated, measurable outcomes of this project are: 1) increased "nesting" in treatment or rehabilitation programs, 2) decreased internal conflict among detainees, and 3) reduced recidivism. To implement the grant, 2.0 FTE would be required to fill the positions of a mental health clinician and care coordinator. These positions would be entirely federally grant-funded for 36 months and administratively supported by C.A.R.E., the Public Health Department, and the Sheriff's Office. No local financial match is required. Staff is exploring financial longevity with the Dogwood Health Trust Substance Use Disorder Impact Officer.

The Board accepted the federal COSSAP grant award with the 2.0 FTE to leverage outside federal grant money to fulfill community needs and implement one of the priority recommendations of C.A.R.E.'s strategic plan that enhances treatment and recovery in Transylvania County.

PRESENTATIONS/RECOGNITIONS

COVID-19 UPDATE

Public Health Director Elaine Russell updated the Board on the COVID-9 pandemic and vaccine program. This is a summary of her presentation:

- In Transylvania County:
 - 54% fully vaccinated (18,604)
 - 56% partially vaccinated (19,303)
- Transylvania Public Health has given: 21,957 total doses of COVID-19 vaccines
 - 11,910 first doses
 - 7,861 second doses
 - 2,186 third/booster doses
 - 13,642 doses of Moderna
 - 4,255 doses of Pfizer
 - 4,060 doses of Janssen (J&J)
- Changes to FDA authorization and CDC booster recommendations:
 - For people fully vaccinated with Pfizer or Moderna at least five months ago (reduced from six months)
 - Pfizer boosters for ages 12+ who were fully vaccinated at least five months ago
- Boosters are now recommended five months after the initial series is completed for people ages 12+ who received Pfizer and people ages 18+ who received Moderna, and two months after the initial dose for people ages 18+ who received J&J.
 - People may receive any vaccine brand as a booster, but some evidence suggests Moderna or Pfizer vaccines may provide the best protection for most people
- Up to date on vaccinations means completed primary series (“fully vaccinated”) plus any boosters for ages 18+ if eligible
- Transylvania Public Health offering a Pfizer-only clinic on Friday, January 14 by appointment only
 - Intended to provide boosters for students ages 12-15
 - First/second/booster doses of Pfizer are also available for anyone aged 12+
- Transylvania Public Health offers COVID-19 vaccines and boosters in the office by appointment Monday-Friday
 - Single doses of Johnson & Johnson for ages 18+
 - 1st and 2nd doses of Pfizer for ages five+
 - 1st and 2nd doses of Moderna for ages 18+
 - Additional doses of Pfizer and Moderna for immunocompromised people
 - Pfizer booster for ages 12+ and fully vaccinated for five+ months
 - Moderna booster (½ dose) for ages 18+ and fully vaccinated for five+ months
 - Johnson & Johnson booster for ages 18+ and vaccinated for two+ months
- In Transylvania County
 - 274 new cases were reported in the past seven days
 - 11% (30) of the 274 are 0-17 years of age
 - 6% (17) of the 274 are 0-11 years of age
 - Case rate of 846 per 100,000 residents over the past seven days = High (red) community transmission

- Most spread of COVID-19 occurs one to two days before symptoms to two to three days after symptoms begin
- Updated isolation and quarantine guidance adopted by CDC in late December; full guidance published January 9 but awaiting detailed information for specific situations
- Isolation for people with COVID-19
 - Stay home and away from others for five days + wear a mask for five more days
 - End isolation on day five if no fever for 24 hours and other symptoms are improving
- Quarantine for close contacts
 - If not up to date on vaccinations:
 - Stay home and away from others for five days + test on day five + wear a mask for five more days
 - If up to date on vaccinations (including boosters if eligible):
 - Wear a mask around others for 10 days + test on day five (do not need to stay home unless symptoms develop)
- People in isolation and quarantine should take precautions for 10 days: avoid travel, avoid places where cannot mask, avoid people at high risk for severe illness
- Transylvania Public Health hiring update
 - Multiple nursing positions posted – 0 applicants
 - New positions posted with tasks that could be completed by CNA/MOA (such as testing, and data entry) – seven applicants received to date

Commissioner Chapman asked if the Health Department requires parental approval for vaccinating those under 18. Ms. Russell replied yes.

Commissioner Chapman inquired about the percentage of those over 65 years old who have been vaccinated. Ms. Russell did not have the data with her at this meeting but would provide it afterward.

Commissioner Chapman asked how many people were currently hospitalized with COVID. Ms. Russell shared that an interesting source, *The New York Times*, reported that Transylvania Regional Hospital has had eight patients in the ICU for the past seven days with a COVID diagnosis. She is unable to get this data from the NCDHHS website and she was unsure how *The New York Times* had this information. That is not normally a data source for the Health Department. Ms. Russell shared there are 218 hospitalized in all of Western North Carolina which is up from 94 as of December 13. In addition, there are 53 in ICU, up from 31.

Commissioner McCall asked if there has been a shortage or delay in the County's ability to obtain testing materials. Ms. Russell responded yes, noting that was not the message health departments were receiving over the holidays.

Commissioner McCall stated she was not surprised to hear of supply shortages due to the ever-changing guidance coming down from the CDC and with everyone trying to get a test because they need to have a negative test to go places. She believes we are over-testing, and she hopes that will change.

Commissioner McCall asked if physicians are using the various therapeutics to treat COVID patients or whether they were simply relying on the vaccine. Ms. Russell explained that physicians must go through the State to gain access to any inventory of therapeutics. The State relies on guidance from the National Institute of Health and their tier ranking system to determine the priority of who gets them. Therapeutics has been more prevalent in the larger counties. The Health Department does not receive reports about actual shipment allocations by a provider.

Commissioner McCall stated it is unfortunate that more lives could not have been saved if therapeutics had been administered.

APPOINTMENTS

REVIEW OF COUNTY COMMISSIONER APPOINTMENTS

County Commissioners serve on a variety of boards and committees. The Clerk provided a current list of Commissioner appointments and requested Commissioners review them for accuracy and determine if they want to continue serving in their current capacities. These were placed on the Board's meeting in December for review and staff asked for the Board to consider the appointments during the 1st meeting in January. The Board will need to specifically act on the Board of Health and Tourism Development Authority for the next two agenda items.

Commissioner McCall expressed interest in serving on DSS Board when the appointment comes open in June.

Commissioner Guice said he would be willing to step aside from the Transylvania County Tourism Development Authority, but he wanted to continue serving on the Board of Health.

The Board made no further changes to their appointments.

Board/Committee	Authority	Meeting Schedule	County Commissioner Appointment
Board of Health	NCGS 130A35 11-member board to include appointment of a county commissioner who shall serve as long as the member is a county commissioner	2 nd Monday of each month at 6pm in the Community Services Building Conference Room	David Guice
Juvenile Crime Prevention Council	NC 143B-846 Membership shall not exceed 26 members and shall include the appointment of a county commissioner	3 rd Friday of each month at 8am at the Morris Education Center	Jake Dalton
Personnel Board	County resolutions of 1988 and 1997 requiring appointment of a county commissioner	4 th Wednesday of the months of February, May, August and November at 3:30pm in County Administration Building Conference Room	Jake Dalton
Social Services Board	At request of Board of Commissioners and allowed per NCGS 108A and NCGS 108A. Appointment is a county commissioner appointment and does not have to be a county commissioner	4 th Wednesday of each month at 3:30pm in the Social Services Building Conference Room	Page Lemel*

Transylvania County Tourism Development Authority	County resolution of 1986 and all amended resolutions require appointment of a county commissioner	4 th Thursday of each month at 8:30am, in the Brevard/Transylvania Chamber of Commerce Conference Room	David Guice
Work First Planning Committee	NCGS 108-27	As needed	Jason Chappell
Land of Sky Regional Council– Primary and Secondary Member	Normally the Board Chair serves as the primary member and the Board Vice Chair serves as the secondary member, but it is required	4 th Wednesday of each month at 1pm at Land of Sky Regional Council, except November and December. The November meeting is normally cancelled. The December meeting is held on the 1 st Wednesday of the month	Primary Jason Chappell Secondary Larry Chapman
Land of Sky Rural Planning Organization (RPO)	Regional Planning Agency	Called by RPO	Larry Chapman
French Broad Metropolitan Planning Organization (MPO)	Regional Planning Agency	Called by FBRMPO	Larry Chapman

Vaya Health County Commissioner Advisory Council (Regional Board)	NCGS 122G-118.1	2nd Wednesday of each month from 1pm to 3pm	Teresa McCall Amanda Vanderloef
Community Relations Board	Community led	Upon call of meeting	David Guice
School Bond Construction Committee	Per agreement between Board of Commissioners and Board of Commissioners of Education	1 st Thursday following the Board of Education meeting of each month at 5pm at the Morris Education Center	Jason Chappell Teresa McCall
Brevard/Transylvania Chamber of Commerce	Chamber Board of Directors Bylaws calls for appointment of an Ex-officio from organizations within the community, including Transylvania County. The Board appointed the County Manager as its representative.	3 rd Thursday of each month at 8am at the Brevard/Transylvania Chamber of Commerce	Elaine Laughter

COUNTY COMMISSIONER APPOINTMENT TO THE BOARD OF HEALTH

The Board of Commissioners made appointments to the Board of Health during their regular meeting in December but tabled the County Commissioner appointment until this meeting to allow the Board of Commissioners to review all their appointments at once. Commissioner Guice's term expired on December 31. Staff recommended the Board reappoint Commissioner Guice to serve another year.

Chairman Chappell moved to reappoint Commissioner Guice to serve another year on the Board of Health, seconded by Commissioner Chapman and unanimously approved.

COUNTY COMMISSIONER APPOINTMENT TO THE TRANSYLVANIA COUNTY TOURISM DEVELOPMENT AUTHORITY (TCTDA)

The Board of Commissioners made appointments to the TCTDA during their regular meeting in December but tabled the County Commissioner appointment until this meeting to allow the Board of Commissioners to review all their appointments at once. Commissioner Guice's term expired on December 31. Commissioner Guice expressed a desire for another Commissioner to serve in this role.

Commissioner Guice moved to appoint Commissioner Chapman to the Transylvania County Tourism Development Authority, seconded by Commissioner Dalton and unanimously approved.

COUNTY COMMISSIONER APPOINTMENTS TO BUDGET REVIEW MEETINGS

The Manager sought a one-time commitment from Commissioners to assist in the review of various elements of the budget and make recommendations in preparation for the Manager's FY 23 Recommended Budget.

The Manager asked for two Commissioners to participate in the following budget review meetings:

1. Sheriff's Office – elected official peer
2. Register of Deeds – elected official peer
3. Community Center grants
4. Nonprofit grants
5. Fire department budgets

Chairman Chappell asked Commissioners to review their meeting schedule and inform the Manager of their interest in any of the listed budget review meetings.

TRANSYLVANIA NATURAL RESOURCES COUNCIL

Greg Evans was appointed to the Transylvania Natural Resources Council in June 2020 but has had to miss the last few meetings for personal reasons. Because he is unable to participate at this time, staff recommended the appointment of Stephen Matadobra to replace Mr. Evans on the Transylvania Natural Resources Council.

Commissioner McCall moved to appoint Stephen Matadobra to replace Greg Evans on the Transylvania Natural Resources Council, seconded by Commissioner Dalton and unanimously approved.

ECUSTA TRAIL ADVISORY BOARD

On December 6, 2021, the Brevard City Council established the Brevard/Transylvania County Ecusta Trail Advisory Board at the recommendation of City Manager Jim Fatland and the City's Parks and Trails Committee. The City of Brevard authorized itself via a resolution to serve as the lead agency to secure funding and oversee the construction of the Ecusta Trail in Transylvania County.

Brevard City Council approved the makeup of the Ecusta Trail Advisory Board as having the following member representatives:

- 2 elected officials from the City of Brevard (Mayor & Chair) Parks, Trails, and Recreation Committee
- 2 members from the Transylvania County Board of Commissioners or their designees
- 1 member from Tourism (Executive Director)
- 1 member from Conserving Carolina
- 1 member from Friends of the Ecusta Trail

- 1 member from the Blue Zones Project
- 2 at-large appointments
- 1 Chairman of the Henderson County Ecusta Trail Advisory Board, ex-officio
- Brevard City Manager
- Brevard Planning Director

The Manager asked the Board to consider appointing two members to the Brevard/Transylvania County Ecusta Trail Advisory Board. The City of Brevard contacted Commissioner Chapman about serving on this board and he has expressed interest in serving. Staff recommended the 2nd appointment be from the Cooperative Extension Service as someone with agricultural knowledge and expertise, preferably Extension Director Addison Bradley.

Commissioners expressed their support of the recommendations for the two members but were disappointed the County was not asked for input on the makeup of this board. Chairman Chappell will be meeting with the Brevard Mayor monthly beginning next week and will share the Board's concerns. Otherwise, Commissioners felt that participation on this board will ensure the County remains informed about the project's progress.

Chairman Chappell nominated and moved to appoint Commissioner Chapman and Extension Director Addison Bradley to the Ecusta Trail Advisory Board, seconded by Commissioner Dalton. The motion passed by a vote of 4 to 1, with Commissioner McCall voting against.

Ms. McCall stated that she voted against the motion because she felt a yes vote represented the support of the Ecusta Trail.

OLD BUSINESS

NEW OSHA COVID-19 VACCINATION AND TESTING EMERGENCY TEMPORARY STANDARD (ETS)

The Manager reported that the US Supreme Court continues to hear arguments on the legality of the ETS and is expected to rule on it soon. Transylvania County must be prepared to enforce the new ETS if it is upheld by the courts.

Budget and Management Analyst Kate Hayes presented further detail. For the entities directly covered by OSHA, some of the requirements went into effect today. North Carolina's OSH office has yet to issue its regulations. When they do, this policy would lay out the requirements for mandatory testing and face coverings for employees who choose not to share their vaccination status with the County. If employees want to be exempt from weekly testing, they may submit proof of vaccination to Human Resources. If employees choose not to submit their vaccination cards, they will have to wear a mask while at work and submit to weekly COVID-19 testing before they are allowed to work. Face coverings shall be worn when indoors or when in a vehicle with another person for work purposes. Any employee who does not elect to submit proof of vaccination and who reports to a workplace where coworkers, citizens, or clients are present will have to receive a COVID-19 test at least once every seven days. Testing will be conducted under the supervision of a Registered Nurse with FDA-approved tests. Test results will be maintained as confidential medical records. Transylvania County is not required to cover the cost of testing per the ETS, but the staff suggested that the County assume those costs for employees. Employees will have to provide their face coverings.

It will be the responsibility of each employee to arrive at their testing site at their scheduled time. Employees who do not show up for their testing appointment will not be allowed to report to work until a

make-up test is scheduled for them. Employees who do not arrive at their testing appointment will be permitted to use vacation leave for a maximum of two weeks or until they can have a make-up test. If employees miss their testing appointment for more than two weeks without a valid excuse communicated to Human Resources, those actions shall be considered the employee's resignation from Transylvania County. If an employee tests positive for COVID-19 through any means of testing, the employee must immediately communicate the positive test date to their supervisor. The employee will be removed from the workplace following the most recent CDC guidelines. The OSHA ETS does not require employers to provide paid time off when employees are absent due to a positive COVID-19 test result, but on October 25, 2021, the Board of Commissioners extended two weeks of paid sick leave to employees who test positive or who are quarantined due to workplace exposure. The extension is for one year.

To prevent penalties for noncompliance with the mandates, supervisors will be responsible for encouraging employees to make every effort to appear for a testing appointment if the employee has chosen not to share their vaccination status with the County. The draft policy included in the Board's agenda packet details when employees will report for testing as well as other procedures such as medical removal from the workplace.

The Manager shared that some employees have indicated they will seek other employment if they are required to undergo weekly testing. The staff has contemplated scenarios to determine how potential losses may impact services. This is one of the reasons for the inclusion of the provision for refusal to test to have the least impact on services for our citizens.

Staff recommended the Board adopt the draft policy pending a decision from the NC Division of Occupational Safety and Health to maintain compliance. If the Supreme Court upholds the ETS, the next step would be implemented by the NC Department of Labor and an immediate requirement for counties to be compliant. Without having a clear timeline at this time, the staff is taking the necessary steps to be prepared for implementation because it will be a substantial administrative task.

The financial cost of implementation would come from the cost of the supplies and the hiring of a CNA to help administer testing.

Commissioners did not support policies that impact employees' livelihoods, but they understood they may not have a choice in whether to implement this policy.

Commissioners asked staff to include a provision on the maximum use of leave time for the Board to consider at the next meeting. Commissioners also requested to review the policy in a few months to ensure it is not causing undue harm. Staff pointed out that a temporary emergency standard is normally three months, so staff can include language to review in line with the ETS timeline.

Chairman Chappell moved to adopt the draft policy pending a decision from the NC Division of Occupational Safety and Health to maintain compliance and a provision that staff will bring back a recommendation regarding the maximum use of leave and a policy review period, seconded by Commissioner Guice and approved unanimously.

ACCEPT FINAL OFFER FROM MINERAL SPRINGS, LLC TO PURCHASE COUNTY-OWNED PROPERTY PIN 8586-73-9812 EMS MAIN BASE

The current Transylvania County EMS Base, located at 842 North Broad Street, is an older structure that was retrofitted as an EMS base. The building is functionally obsolete, and the County has been planning to relocate the main base to property on Morris Road. At the December 13 Board of Commissioners' meeting, the Board authorized a property swap with Biltmore Baptist Church and authorized staff to seek

requests for qualifications on the architectural and engineering designs for a new EMS Base Station to complete this capital goal.

Mineral Springs, LLC made an offer to purchase the current EMS Base Station property for \$600,000, which exceeds the certified appraisal conducted by the administration. The offer also includes provisions to allow Transylvania County EMS to operate for up to 180 days after closing on the purchase. This will allow time to set up a temporary EMS location ahead of full relocation to the property on Morris Road. State statute requires that local governments use the upset bid process after accepting an offer to purchase a county-owned property. On December 13, the Board of Commissioners accepted the offer from Mineral Springs, LLC and instructed the Clerk to the Board to take the appropriate action for the upset bid process. The Clerk advertised the upset bid ad under the advisement of the County Manager and County Attorney. The bidding deadline closed on January 3 with no upset bid offers.

Commissioner McCall moved to authorize the County Manager to sign the Offer to Purchase from Mineral Springs, LLC to begin the inspection period, seconded by Commissioner Dalton and unanimously approved.

NEW BUSINESS

AMEND US HIGHWAY 64 WATER PROJECT

The Manager reported that Transylvania County is currently in the permitting, final design, and easement acquisition phase of a force main sewer line to connect the Town of Rosman's sewer line system to Gaia Herbs. This was originally a sewer line project, and the Board Commissioners approved a waterline extension proposal that added a 12-inch waterline to the project. The water line extension will connect to the Town of Rosman's water system near the intersection of Old Rosman Highway and Highway 64 and extend to the intersection of Clement Road and Old County Home Road.

The sewer and water line extension will provide access to customers along the Highway 64 corridor for future expansion of residential, commercial, and industrial connection projects as currently designed and permitted. Any future connections for land located on the southeast side of Highway 64 will require an NCDOT permitting process and boring under the highway to extend the sewer and water line. This allows future development to drive expansion areas and the potential for public and private partnerships on future expansion.

The Mayor Brian Shelton of the Town of Rosman has requested the addition of two crossover borings and waterline extensions that were not included in the original project approved by the Board of Commissioners. Mayor Shelton is requesting a boring at Whitmire Road for both water and sewer and a boring at Cassell Road for water only. The Cassell Road request includes the extension of the waterline to Old Rosman Highway. That section already has access to a sewer line. This extension and connection will complete an 8" water line for a loop feed.

To date, the Board of Commissioners has approved the following:

Town of Rosman Sanitary Sewer Expansion Project	\$1,754,988
Town of Rosman Waterline Extension	\$1,765,835
Contingency (12.5%)	<u>\$440,103</u>
Total	\$3,960,926

High Country Engineering provided an opinion of the probable cost for adding the additional borings for the sewer and water line extension to the project. If approved, the additional \$693,935 for the project

would come from the American Rescue Plan funding allocated to Transylvania County. The Manager sought direction from the Board on amending the project as requested.

Commissioner Chapman asked if there would be cost savings by moving forward with both now versus adding to a future project. The Manager stated the included 3% for mobilization. It takes major equipment to do the borings throughout the project. In addition, the Whitmire Road crossover would provide an immediate customer base of 400 homes which will generate revenue quicker than the Cassell Road section.

Commissioner Guice asked the Manager to explain all the revenue sources for this project. The Manager shared that this project would be funded by a combination of funds received from the NC Department of Commerce, the Appalachian Regional Commission, the American Rescue Plan Act, and Dogwood Health Trust.

Commissioner Guice felt it was the best and right thing to do to include the request from Mayor Shelton, especially with ARPA funding being available.

Commissioner Dalton moved to amend the Highway 64 Water Project based on the recommendation and guidelines and to include \$693,935 in additional ARPA funds, seconded by Commissioners Guice and McCall simultaneously, and unanimously approved.

AMEND WATER AND SEWER CAPITAL FUND PROJECT ORDINANCE

Finance Director Jonathan Griffin presented this item to the Board. He reported that actions were taken by the Board of Commissioners at this, and recent meetings that necessitate the amendment of the County's Water and Sewer Infrastructure Fund, a proprietary type of capital project fund.

The revenues and expenditures in the Water and Sewer Infrastructure Project Ordinance should be adjusted as follows:

- Add the Water Treatment Plant funded in the State's budget - \$7,000,000
- Add the Water/Sewer/Affordable Housing planning studies - \$437,500
- Add the Town of Rosman Supplemental Water Crossings on Highway 64 - 693,935

In addition, the following revenues should be adjusted:

- Add \$7 million from the State budget appropriation
- Add the charitable contribution from Dogwood Health Trust of \$2,037,000 toward water and planning studies
- Revise the level of support provided by ARPA resources and general fund transfers

Of the current projects funded under the ordinance, \$224,081 has been expended towards the Sanitary Sewer Project, mostly for pre-engineering work, and \$0 in revenues have been received from grants simply due to a timing issue. Amending this Capital Fund Project Ordinance increases it from \$3.9 million to approximately \$12 million which speaks to the magnitude of the projects the County is currently working on.

Commissioners thanked staff for presenting a capital fund project ordinance that breaks out the projects to show how monies are being spent.

Commissioner Dalton moved to adopt the amended Water and Sewer Infrastructure Project Fund Ordinance, seconded by Commissioner Guice, and unanimously approved.

TRANSYLVANIA COUNTY CAPITAL PROJECT FUND

BE IT ORDAINED by the Board of Commissioners of Transylvania County, North Carolina, the following capital reserve fund is hereby established:

SECTION 1. The Transylvania County Board of County Commissioners hereby establish a capital fund for the purposes of furthering the expansion of water and sewer services until such time as a future Board of County Commissioners determines that this capital project fund is no longer necessary and all projects contained herein have been completed.

SECTION 2. The County Manager is hereby directed to proceed with the capital projects within the terms of the approved projects contained herein.

SECTION 3. The following projects are authorized to be accounted for in the Transylvania County Water and Sewer Development Fund.

Town of Rosman Sanitary Sewer Expansion Project (2021-2022)	\$ 1,754,988
Town of Rosman Water Line Expansion (2021-2022)	\$ 1,765,835
<i>Town of Rosman Supplemental Waterline Crossings</i>	\$ 693,935
Sanitary Sewer/Water Line Contingencies	\$ 440,103
<i>Water Treatment Plant (2022-2024)</i>	\$ 7,000,000
<i>Water/Sewer/Housing Planning Study (2022-2024)</i>	\$ 437,500
Total	\$ 12,092,361

SECTION 4. The following revenues are anticipated to be available to complete these projects:

NC Industrial Development Funds	\$ 880,750
Appalachian Regional Commission	\$ 300,000
<i>NC DEQ Water and Wastewater Fund Allocation (ARPA)</i>	\$ 7,000,000
<i>Dogwood Health Trust Charitable Contribution</i>	\$ 2,037,000
<i>ARPA - Infrastructure Investment</i>	\$ 1,470,361
Transfers from the Other Funds:	
Appropriation from General Fund (Assigned Fund Balance FY '20)	\$ 404,250
	\$ 12,092,361

Section 5. The Finance Officer is hereby directed to maintain the Capital Project Fund for Water and Sewer System Development with sufficient accounting records to monitor all costs and comply with reporting required by grantor agencies.

Amended this 12th day of April 5th, 2021

TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS

Jason R. Chappell, Chairman

ATTEST:

Trisha Hogan, Clerk to the Board

TRANSYLVANIA COUNTY PURCHASING & BIDDING POLICY RESOLUTION FOR FEDERAL COMPLIANCE

Finance Director Jonathan Griffin presented this item to the Board. He reported that as an entity that receives more than \$750,000 annually in federal funds, Transylvania County government is subject to a

series of federal regulations that govern the procurement, contracting, auditing standards, and other administrative matters.

This package of federal rules is called the “Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards” or for short, the “Uniform Guidance.” The Uniform Guidance was originally released beginning in 2018 but underwent several major revisions in 2020 and 2021. One key new change requires Transylvania County to change its procedures rather than the federal regulations spelling out the micro-purchase threshold which is the price point at which no competitive process is required before buying. The new federal regulations require entities to determine and document the threshold on their own.

After faculty member Connor Crews at the UNC School of Government reviewed this new regulation, he, and a team of individuals from the North Carolina Pandemic Recovery Office, NC Department of Public Instruction, and the NC Division of Emergency Management recommended a new process for government entities in North Carolina.

In this new process, they recommend a new approach to adopting and administering purchasing policies. The historic model for both Transylvania County and many local governments has been a single policy manual that covers purchasing thresholds, types of purchases of services, and all other relevant materials. Instead, the recommendation is to adopt a resolution that sets the purchasing thresholds separately and use a manual to fill in the step-by-step gaps in information not covered by the resolution.

Future updates to this policy would follow this recommended track:

- During the budget process, staff would review the thresholds and determine if there have been any federal or state changes.
- The Board could adopt a new purchasing resolution as a part of its final budget approval process, making any changes as necessary,
- If there are federal or state changes that would change how the County instructs its staff to proceed with purchasing decisions, it could simply update the manual without the Board's needing to consider the full "How should staff purchase item X or service Y"

The proposed Annual Purchasing Resolution makes changes to existing practice to align with state or federal standards:

Type of Purchase	Current Threshold	New Micro-purchase	Informal	Formal
Apparatus, supplies, materials, or equipment	\$5,000	\$10,000	\$10,001 to \$49,999	\$50,001 to \$89,999
Construction or Repairs	\$5,000	\$15,000	\$15,001 to \$99,999	\$100,000 and above
Services (Mini-Brooks)	\$50,000	n/a	n/a	\$50,001 and above, full RFQ required
Services (Other)	No Threshold	\$50,000	\$50,001 to \$89,999	\$90,001

There are two key changes:

- The minimum for which it would be necessary for competitive pricing goes up from \$5,000 to \$10,000. This is consistent with other changes and aligns the requirement with the federal standards.

- There is a requirement for some competitive bidding for services on the federal side which is not required by State law. In this case, the federal rules would apply.

For reference:

- Micro-purchases mean that no competitive pricing is required.
- Informal would require the attempt by staff to solicit and document multiple quotes or written estimates.
- Formal would require the attempt by staff to solicit sealed bids/proposals from qualified/responsible bidders.

The informal and formal thresholds would additionally not apply if staff were able to identify an allowable exception in State law. For example, formal competitive quotes would not be necessary on a patrol car for the Sheriff's Office because there is a statewide contract awarded by the NC Sheriff's Association that would allow the purchase of motor vehicles. These exceptions are required to be documented according to N.C.G.S. § 143-129(e).

Commissioner McCall moved to adopt the Annual Purchasing Resolution for the remainder of FY 2022, seconded by Commissioner Dalton and unanimously approved.

RESOLUTION # 02 - 2022
ANNUAL PURCHASING RESOLUTION

WHEREAS, from time to time, the County of Transylvania purchases goods and services using federal funding subject to the procurement standards in 2 C.F.R. Part 200, Subpart D; and

WHEREAS, the County of Transylvania's procurement of such goods and services is subject to Transylvania Purchasing and Contracting Procedures, as most recently amended on the 25th of June 2018; and

WHEREAS, the County of Transylvania is a non-Federal entity under the definition set forth in 2 C.F.R. § 200.1; and

WHEREAS, pursuant to 2 C.F.R. 200.320(a)(1)(ii), a non-Federal entity may award micro-purchases without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents that the non-Federal entity files, accordingly; and

WHEREAS, pursuant to 2 C.F.R. 200.320(a)(1)(iii), a non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures; and

WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), a non-Federal entity may self-certify on an annual basis a micro-purchase threshold not to exceed \$50,000 and maintain documentation to be made available to a federal awarding agency and auditors in accordance with 2 C.F.R. § 200.334; and

WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), such self-certification must include (1) a justification for the threshold, (2) a clear identification of the threshold, and (3) supporting documentation, which, for public institutions, may be a "higher threshold consistent with State law"; and

WHEREAS, G.S. 143-129(a) and G.S. 143-131(a) require the County of Transylvania to conduct a competitive bidding process for the purchase of (1) “apparatus, supplies, materials, or equipment” where the cost of such purchase is equal to or greater than \$30,000, and (2) “construction or repair work” where the cost of such purchase is greater than or equal to \$30,000; and

WHEREAS, North Carolina law does not require a unit of local government to competitively bid for the purchase of services other than services subject to the qualifications-based selection process set forth in Article 3D of Chapter 143 of the North Carolina General Statutes (the "Mini-Brooks Act"); and

WHEREAS, the County of Transylvania intends to achieve the following principles as a matter of public policy;

- A. To comply with the legal requirements of public purchasing and procurement.
- B. To assure vendors and contractors that impartial and equal treatment to all those who wish to do business with the County.
- C. To receive maximum value for each public dollar spent.
- D. To ensure that County departments and offices have the required goods, equipment, and services necessary to carry out their duties.
- E. To promote good and effective vendor relations, cultivated by fair practices and strict ethical standards.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Transylvania County;

1. In accordance with 2 C.F.R. § 200.320(a)(1)(iv) and the applicable provisions of North Carolina law, the County of Transylvania hereby self-certifies the following micro-purchase thresholds, each of which is a “higher threshold consistent with State law” under 2 C.F.R. § 200.320(a)(1)(iv)(C):
 - a. \$15,000 for the purchase of "construction or repair work" to County facilities
 - b. \$10,000 for the purchase of “apparatus, supplies, materials or equipment”
 - c. \$50,000 for the acquisition of services not subject to the qualifications-based selection process.
 - d. \$50,000 for the acquisition of services subject to the qualifications-based selection process in the Mini-Brooks Act; provided that such threshold shall apply to a contract only if the County has exercised an exemption to the Mini-Brooks Act, in writing, for a particular project pursuant to North Carolina General Statute 143-64.32. If an exemption pursuant to Mini-Brooks Act has not been issued, then the threshold shall be \$0.
2. In the event that the value of goods and services exceeds these values outlined in section 1, then the following thresholds shall apply, and be subject to the "informal" competitive process, as defined by the County of Transylvania's policies and procedures:
3.
 - a. \$15,001 to \$99,999 for the purchase of "construction or repair work"
 - b. \$10,001 to \$49,999 for the purchase of “apparatus, supplies, materials or equipment”
 - c. \$50,001 to \$89,999 for the acquisition of services not subject to the qualifications-based selection process
4. In the event that the value of goods and services exceeds these values outlined in section 2, then the following thresholds shall apply, and be subject to the "formal" competitive process, as defined by the County of Transylvania's procurement policies and procedures:
5.
 - a. \$100,000 for the purchase of “construction or repair work”

- b. \$50,000 for the purchase of “apparatus, supplies, materials or equipment”
 - c. \$90,000 for the acquisitions of services not subject to the qualifications-based selection process
6. The procurement of goods, materials, services, and construction or repair work shall be exempted from these requirements if the procurement has a qualified exception as defined by N.C. General Statutes 143-129(e) **and** that exception has been documented in the Transylvania County Finance Office.
 7. In the event a federal or state agency requires, as a condition of funding receipt, a threshold for a competitive process more restrictive than those adopted above, then those more restrictive thresholds shall prevail and govern the procurement of goods and services.
 8. Modifications to existing purchase agreements and contracts (“change orders”) shall be subject to the review and approval of the County Manager if they fall within the approved budget for the purchase or acquisition of the agreement or contract, if they exceed the approved budget then they shall only be valid if submitted to and approved by the Transylvania County Board of Commissioners.
 9. **EFFECTIVE DATE.** This Resolution shall become effective upon adoption and shall expire on June 30, 2022.

Adopted this the 10th day of January 2022.

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

MANAGER’S REPORT

The Manager reported the following:

- Staff is starting the FY 23 Budget process. Departmental reports are calendared for the two meetings in February with March being the opportunity for elected officials (Register of Deeds and Sheriff) to present. This will be an opportunity for the departments to report to the Board and the public on the services they provide and the trends they are experiencing in their respective departments.
- Transylvania County has been invited to apply for the next stage of the GoldenLeaf Community Based Grants Initiative funding cycle. Applications will be considered in April. This is the funding stream that allowed for a partnership between the County and the City of Brevard to construct the Sylvan Valley Industrial Building. The application will request the full amount available, up to \$1.5 million, in order to complete the phase two expansion of the industrial building. It will require a significant commitment from the Board of Commissioners to move forward with the project.

PUBLIC COMMENT

There were no comments from the public.

COMMISSIONERS’ COMMENTS

Commissioner McCall stated that Transylvania County has many organizations that assist citizens in times of need. She highlighted the work of Lake Toxaway Charities which does not get a lot of attention. In 2021, Lake Toxaway Charities distributed over \$650,000 to those in need, and \$4 million since 2006.

She said this organization does a phenomenal job helping families and they have donated lots of funds to the School System for various projects. She was very appreciative of their work, as well as all the organizations across the County that serve our citizens.

Chairman Chappell asked the Manager to send Commissioners an update, including pictures, on all the activities going on at Solid Waste and the Landfill. Those staff have been working diligently to make much-needed changes. He was very appreciative of their work.

Commissioner Chapman shared that he continues to receive phone calls from citizens questioning the delays in septic permits. With the amount of construction going on around the County, he expects the delay to continue, but he welcomed anything staff can do to alleviate the backlog. Commissioner Chapman asked the Manager for an update on the new Passport and Tag Offices. The Manager informed Commissioners that the official opening date for the Tag Office will be released soon. Business in the Passport Office is going well.

Commissioner Guice was pleased with the decision to add the Passport and Tag Offices as County services. He was appreciative of the County's commitment to providing much-needed services for our citizens. Commissioner Guice thanked Alice Wellborn for her public comments earlier, noting that the ARPA funds are coming into the County because of decisions made at the federal level, although many North Carolina representatives voted against it. These funds give the County an opportunity it would not have had otherwise. The local elected officials recognize this fact and intend to make good decisions that will have a positive impact on the community.

Commissioner Chapman added, in fairness to our federal representatives who voted against the bill, that the ARPA bill was not a clean bill in that it included a lot of "junk" spending that they just could not support.

Chairman Chappell reminded the Board and the public that the Board of Commissioners and Board of Education will hold a joint meeting on January 31 at 6:00 p.m. in Commissioners Chambers. Staff will publish notice of the meeting soon.

Chairman Chappell moved to enter into closed session per N.C.G.S. § 143-318.11 (a) (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged and per N.C.G.S. § 143-318.11 (a) (6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee, following a 10-minute recess, seconded by Commissioner Dalton and unanimously carried.

CLOSED SESSION

Per N.C.G.S. § 143-318.11 (a) (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged, a closed session was entered into at 6:15 p.m. Present were Chairman Chappell, Commissioners Chapman, Dalton, Guice and McCall, County Manager Jaime Laughter, Finance Director Jonathan Griffin, County Attorneys Bill Bulfer and John Kubis, Attorney Rebecca Joyner of Parker Poe, and Clerk to the Board Trisha Hogan.

Commissioners and staff consulted with the County Attorney about a privileged matter and then directed staff on how to proceed.

Per N.C.G.S. § 143-318.11 (a) (6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee, the second closed session was entered into. Present were Chairman Chappell, and Commissioners Chapman, Dalton, Guice, and McCall.

Commissioners met in closed session to conduct annual performance reviews.

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

OPEN SESSION

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

ADJOURNMENT

There being no further business to come before the Board, **Chairman Chappell moved to adjourn the meeting at 7:53 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