

**August 8, 2019– Regular Session**

The Swain County Board of Commissioners held a Regular Session on August 8, 2019 Present were Chairman Bushyhead, Vice-Chair Burns, Commissioner Parton and Commissioner Parsons and Commissioner Seagle.

Chairman Bushyhead called the regular session to order. Joe “Gunner” Vasquez led the Pledge of Allegiance.

**Adjust Agenda**

Vice-Chair Burns made a motion to adjust the agenda adding discussion of the Rec Park Advisory Board. Commissioner Parsons seconded the motion. A vote was unanimous.

**Tax Collector’s Report**

Peggy Hyde gave the Tax Collector’s report to the Board for the months of July 2019. Ad-Valorem tax receivable for was \$5,443,921.45. There was \$817,001.47 collected for the month. Total collections year to date were \$817,001.47. The tax collection percentage year to date was 12.46%. Total releases were \$2,171.65, total discoveries were \$584.83 and total refunds were \$1,053. Commissioner Parsons made a motion to approve the report as submitted. Vice-Chair Burns seconded the motion. A vote was unanimous.

**Budget Amendment #1**

Vice-Chair Burns made a motion to approve the following:

**SWAIN COUNTY - BUDGET AMENDMENT #1**

BE IT ORDAINED by the Governing Board of the County of Swain, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2020:

SECTION 1. For the purpose of amending the adopted budget to reflect the following changes:

| <u>Description</u>                  | Inc. Expenditures<br>or Dec. Revenues | Inc.Revenues<br>or Dec. Exp. |
|-------------------------------------|---------------------------------------|------------------------------|
| <b><u>General Fund</u></b>          |                                       |                              |
| Jail- Comp time program             | 50,000                                |                              |
| Capital Outlay                      | 55,000.                               |                              |
| Recreation                          |                                       |                              |
| Parking Area- Morgan Pavilion       | 37,500                                |                              |
| <b><u>General Fund Revenues</u></b> |                                       |                              |
| Jail Fees                           |                                       | 50,000                       |
| Appropriated Fund Balance           |                                       | 37,500                       |
| Financing Proceeds                  |                                       | <u>55,000</u>                |
| <b>Total</b>                        | <b><u>142,500</u></b>                 | <b>142,500</b>               |

As Clerk of the Board, I certify the Swain County Board of Commissioners in a Regular Session approved this budget amendment on August 8, 2019.

\_\_\_\_\_  
Cindi Woodard, Clerk to the Board

Commissioner Parsons seconded the motion. This item passed with 4 voting aye and Commissioner Parton voting nay.

**Public Comments:** Brent McMahan – leaving Sheriff’s Department to move to another county for better pay.

**Action Items**

- Approval of Minutes: Commissioner Seagle made a motion to approve minutes of the July 11 regular session and July 25 work session. Commissioner Parton seconded the motion. A vote was unanimous.

-Jury Commission Appointment: Commissioner Parsons made a motion to reappoint Joan Weeks to the serve another term. Vice-Chair Burns seconded the motion. A vote was unanimous.

-Swain County Health Department – approval of policies, etc.: Commissioner Seagle made a motion to approve the following as presented by Alison Cochran:

### **Adjudication Policy and Procedure**

To provide a fair and equitable adjudication process for local rules and ordinances in compliance with North Carolina Statutes. Changed title to “Swain County Health Department” instead of “Human Services.”

### **Establishing Policy and Procedures**

To provide guidance and direction, and ensure accuracy, consistency and standardization in the development of policies and procedures.

### **Human Services Board Operating Procedures**

The Human Services Board is the policy-making, rule-making and adjudicatory body for the Swain County Health Department. The Human Services Board has the responsibility to protect and promote the public health and social welfare of the citizens of Swain County and as such has the authority to adopt rules necessary for that purpose.

To provide guidance and direction, and ensure accuracy, consistency and standardization in the development of policies and procedures for the Health Department. There are 3 major roles the Human Services Board has:

- Rulemaking
- Adjudication
- Administration

You are responsible to protect and promote the public health and as a board you have the authority to adopt rules necessary for that purpose. The rules that the Human Services Board adopt are enforceable in court. General limitations are:

- Must be related to health
- Must be reasonable
- Must not discriminate

Another role is your Adjudicatory role. If the board adopts a local rule and a staff member is enforcing that rule- and a local citizen is unhappy with the department’s action...they can appeal to the Human Services Board. The board is acting like a “quasi-judicial body” hearing the evidence and determining if:

- Legal authority existed for the department’s decision
- The decision is supported by the evidence

The county attorney would be available for consult prior to an appeal hearing to ensure all legal requirements are met. If the citizen is not satisfied with the board’s decision they have the right to appeal to district court.

The final role is Administration and financial operations. The Human Services Board is involved in setting fees for some services. They must be cost based. It is not required that you are involved in developing the budget of the health department but it has always been our policy to present our budget for your review.

Swain County Board of Commissioners shall be trained within the first year of being appointed. On-going training shall be at least once during the 4 year Accreditation cycle unless there are changes to the Board of Commissioners responsibilities. Trainings could include, but not limited to, on-line modules or training given at Board of Commissioners meetings. Training will be specified by Health Director of Human Services Director. Advisory Board members may be included in the trainings.

Changed title to “Swain County Health Department” instead of “Human Services.”

### **Participation in Community Health Improvement Policy**

The Human Services Board recognizes the community health improvement process can be an effective tool for developing shared vision and supporting a planned and integrated approach to improved community health. This refers to the community health assessment which is completed every 3 years and that the board recognizes this concept as a valuable tool to use when soliciting information from individual in the community in finding out what they believe are major health problems facing Swain County. Policy was streamlined. Information in policy did not change.

**Staff Development, Training and Continuing Education Policy**

Our staff receives required and related training and continuing education to make them a more knowledgeable employee and perform their duties here at the health department. Yearly staff training is conducted at health department on policies and procedures as well as preparedness plans and respiratory protection. EH and nurses are required to have continuing education for credentialing.

**Workforce Development Policy**

Guideline for the health department to achieve diversity in our workforce in accordance to our population.

**Fees and Eligibility Policy and Procedure**

Public health services are increasingly costly to provide. The Health Department serves the public interest best by assuring that all legally required public health services are furnished for all citizens and then providing as many recommended and requested public health services as it can for those citizens with greatest need.

**Recruitment, Retention and Diversity Action Policy**

Recruit employees thru website, printed media, Employment Security Commission and referrals. Our employees are trained in diversity and we do what we can to retain employees.

**Delegation of Duties of Health Director**

Policy follows the general statute described in the duties of a health director. Duties include overall management of the affairs of the Health Department, approving all staffing assignments, representing Board of Commissioners in community settings and other duties as guided by the approved job description.

**Observing Public Health Laws, Rules and Regulations**

Ensure that the workforce consults and follows Federal, state, and local laws and regulations and the most current recommendations of regulation and advisory agencies in the delivery of essential and mandated public health services. Added “SCHD General Policy Manual SCHD Programs Policy and Procedures Manual” to Reference Plans and Policies. Commissioner Parton seconded the motion. A vote was unanimous.

-Juvenile Crime Prevention Council – County Funding Plan/Certification: Commissioner Parsons made a motion to approve said documents as presented. Vice-Chair Burns seconded the motion. A vote was unanimous.

-TDA Resolution: Commissioner Parsons made a motion to approve the following:



**Resolution # 900-2019-7**

**STATE OF NORTH CAROLINA  
COUNTY OF SWAIN**

**WHEREAS**, the Swain County Board of Commissioners has adopted a Resolution levying a room occupancy tax; and

**WHEREAS**, the Swain County Board of Commissioners deems it necessary to create a Swain County Travel and Tourism Authority for the purpose of using the funds so collected to promote travel and tourism within Swain County.

**THEREFORE, BE IT RESOLVED** that the Swain County Board of Commissioners does hereby create a Swain County Tourism Development Authority as described in Senate Bill 336/S.L. 2007-23

All members shall be appointed by the Swain County Commissioners. The Commissioners will take the recommendations of the Swain County Chamber of Commerce for four of said members and the remaining five members shall be chosen directly by the Board of Commissioners for a total of nine appointees. Three members shall have initial terms of one year, three for two year terms and three for three year terms. After said terms, all members shall have terms for a period of three years. Terms shall end on June 30<sup>th</sup> in the year the term expires.

The Tourism Development Authority Board membership shall be in compliance with Senate Bill 336/ S.L. 2007-23

The Swain County Finance Officer will serve as the Ex-Officio member of the Swain County Travel and Tourism Authority.

No appointees to the authority shall serve for more than two consecutive terms.

The County Commissioners shall designate one member of the TDA board as chair.

**BE IT FURTHER RESOLVED** that all members of the authority shall serve without compensation; that each authority shall adopt its own rules of procedure to govern its meetings, and each authority will meet at least once each month.

Any member of the authority who fails to attend at least 75% of the meetings of the authority during a calendar year shall automatically cease to be a member of the authority.

**BE IF FURTHER RESOLVED** that any vacancy occurring on the authority shall be filled by the Board of Commissioners, such person who is no longer a member of the authority, and such appointment shall be for the unexpired term of the person replaced. Any person appointed to fill an unexpired term shall be eligible for appointment for two full terms.

**BE IT FURTHER RESOLVED** that Swain County Travel and Tourism Authority shall file written quarterly reports with the Swain County Board of Commissioners, with the first of such reports to be due on or before October 1, 2019.

**BE IT FURTHER RESOLVED** that each authority may contract with any person, firm, corporation or agency to advise and/or assist with the promotion of travel, tourism and conventions or for the dissemination of promotional materials and information, but no such contract shall be made unless the monies for the payment of said contract in full have actually been collected and allocated to each respective authority.

Additionally, the Authority can purchase, lease and maintain property for the purpose of promoting travel and tourism in Swain County. Said expenditures shall be in compliance with Senate Bill 336.

**BE IT FURTHER RESOLVED** that no monies shall be expended by the authority except as provided for in Section 1 (e) of Senate Bill 336, or as the same may hereafter be amended from time to time, unless specifically authorized by law and only then with the approval of the Swain County Board of Commissioners.

Adopted this the \_\_\_\_ day of \_\_\_\_\_, 2019.

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Ben Bushyhead  
Chairman of the Swain County  
Board of Commissioners

ATTEST:

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Cindi Woodard  
Clerk to the Swain County  
Board of Commissioners

Commissioner Seagle seconded the motion. A vote was unanimous.

-Swain County Sheriff's Department Transportation Plan: Commissioner Seagle made a motion to approve the following:

**STATE OF NORTH CAROLINA SWAIN COUNTY  
MEMORANDUM OF TRANSPORTATION AGREEMENT**

THIS MEMORANDUM OF TRANSPORTATION AGREEMENT ("Transportation Agreement") is made and entered as of MAY 20, 2019 ("Effective Date"), among the law enforcement agencies listed below and the Swain County Sheriffs Office ("Sheriffs Office") (collectively, "the Parties", individually "Party").

WHEREAS, N.C.G.S. §122C-251, Custody and Transportation for Involuntary Commitments, was amended and is effective October 1, 2019; and

WHEREAS, N.C.G.S. §122-251 (g) requires the governing body of a city or county adopt a plan known as an "involuntary commitment transportation agreement" or "transportation agreement" for the custody and transportation of respondents in involuntary commitment proceedings; and

WHEREAS, once adopted, the Transportation Agreement must be submitted to: the Magistrates in Swain County; the Swain County Clerk of Court; the Division of Mental Health Development Disabilities, and Substance Abuses Services; and the Local Management Entity-Managed Care Organization ("LME/MCO") that serves Swain County.

NOW THEREFORE, for and in consideration of mutual promises to each other as herein after set forth, the Parties mutually agree as follows;

1. After a Swain County Magistrate issues an involuntary commitment order ("TVC Order") and the Magistrate contacts the local law enforcement agency in the jurisdiction where the respondent resides or is physically located, an officer or deputy with the jurisdiction shall retrieve the IVC Order from the Magistrate.

a. If the respondent is a resident of the municipality or is physically taken into custody in the municipal limits, the municipality is responsible for transportation of the respondent including admission and discharge.

b. If the respondent is a resident of the county outside any municipal limit or is physically taken into custody outside municipal limits, the county is responsible for transportation of the respondent including admission and discharge.

2. The officer or deputy shall attempt to locate the respondent at the address provided on the IVC Order or where the magistrate believes the subject is physically located.

3. Upon location, the officer or deputy shall take respondent into custody and transport respondent to Swain County Hospital or other approved facility. After the facility has completed its examination of respondent, and if further care is required, the facility will locate a facility for respondent's future care.

4. The Sheriffs Office shall respond to the facility for respondent's transport to any facility in North Carolina, identified by the initial facility (who conducted the initial evaluation), for respondent's future care.

5. Upon completion of the initial evaluation, if the facility determines respondent is not in need of further treatment, an officer or deputy with the agency that took respondent into custody shall return respondent to the address in the IVC Order or allow for other transportation arrangements of respondent be made.

6. Each party to this Transportation Agreement agrees it is responsible for its own acts and/or omissions and those of its officials, employees, representative and agents in carrying out the terms of this Transportation Agreement and the results thereof to the extent authorization by law and shall not be responsible for the acts and/or omissions of any other Party and the results thereof.

7. It is understood and agreed that each Party's liability may be limited by the provisions or other immunity law applicable to each law enforcement agency. Parties understand and agree that each Party has not waived its rights, immunities and protections provided by law. Nothing contained in this Transportation Agreement shall waive or amend, nor shall be construed to waive or amend any defense or immunity that either Party, their respective officials and employees, has or may have.

8. This Transportation agreement is not intended to and will not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, corporation or other formal business association or organization of any kind among the Parties. Moreover, the rights and the obligations of the Parties under this Transportation Agreement will be only those expressly set forth in this Transportation Agreement.

9. This Agreement may be amended by written Agreement of the Parties.

10. Each term, condition, or covenant herein is subject to and shall be construed in accordance with the North Carolina law and any applicable federal law.

11. This Agreement may be executed in two (2) or more counterparts each of which will be deemed to be an original.

IN WITNESS WHEREOF, the law enforcement agencies and the Sheriffs Office, acting under authority of their respective governing bodies, have caused this Memorandum of Transportation Agreement.

Vice-Chair Burns seconded the motion. A vote was unanimous.

### **County Manager's Report**

Kevin King gave an update on:

- Ann Bass will be at the work session to discuss Strategic Planning.
- Kevin and Danny met with the Marianna Black Library regarding options to; create a new library, renovate the existing library, do nothing or place the library at a different location. They were advised to include the options in their plan.
- The Agriculture Fair is August 17<sup>th</sup> from 12 pm – 6 pm at the Swain County Event Park.
- Auditors will be here next week.
- Kevin and Ben met with the TDA auditor regarding public law, finances, etc.
- September 3<sup>rd</sup> our offices on the 3<sup>rd</sup> floor will be closed due to a court hearing in the auditorium.
- Highway 19/NCDOT update: the final document will be given to the engineer firm in November to widen the road from Ingles to Lloyds on the River. Public meetings are being planned.

### **Commissioner Reports**

Commissioner Parsons: Attended a Giving Spoon meeting, checked on the SCHS project progress

Commissioner Parton: No Report

Vice-Chair Burns: met with C4C, they've just finished up summer camp with 21 kids, met with the library and looked at their property

Commissioner Seagle: Attended JCPC meeting, going to the 7 County Summit, and Giving Spoon meeting

Chairman Bushyhead: No Report

### **New Business**

-Sheriff Cochran commended the Board with their efforts to get employees where they should be and noted they're moving in the right direction.

-Commissioner Parton expressed his concerns about the Rec. Park Advisory Board and requests the Commissioners meet with them at the next meeting scheduled for August 13<sup>th</sup>.

### **Closed Session**

7:10 pm – Commissioner Parsons made a motion to go into closed session as required for under NCGS 143-318.11(a)(3) Attorney/Client Privileges. Vice-Chair Burns seconded the motion. A vote was unanimous.

7:33 pm – Commissioner Parton made a motion to adjourn the closed session. Commissioner Parsons seconded the motion. A vote was unanimous.

Chairman Bushyhead noted the decision for the county attorney to obtain figures for the Board to work with on a pending litigation matter.

### **Adjournment**

Commissioner Parsons made a motion to adjourn. Commissioner Seagle seconded the motion. A vote was unanimous.

Respectfully Submitted,

Cindi C. Woodard  
Clerk to the Board  
Swain County Commissioners

Ben Bushyhead  
Chairman  
Swain County Commissioners