

**CLEVELAND COUNTY BOARD OF COMMISSIONERS**

**August 2, 2005**

The Cleveland County Board of Commissioners met in a regular session on this date, at the hour of 6:00 p.m., in the Commission Chamber of the Cleveland County Administrative Offices.

**PRESENT:** Ronald J. Hawkins, Chairman  
Jerry L. Self, Vice-Chairman  
Mary S. Accor, Commissioner  
Johnny Hutchins, Commissioner  
Willie B. McIntosh, Commissioner  
David C. Dear, County Manager  
Robert Yelton, County Attorney  
Wanda Crotts, CMC, County Clerk  
Pat Spangler, Deputy Clerk  
Eddie Bailes, Human Resources Director  
Chris Crepps, Finance Director  
Chris Green, Tax Assessor  
Bill McCarter, Planning Director  
Joe Cherry, Electronic Engineer  
Alex Caban, Cleveland Headline News  
Joy Scott, The Star  
Other individual names on file in the Clerk's Office

**CALL TO ORDER**

Chairman Hawkins called the meeting to order, led the audience in the "Pledge of Allegiance" to the flag of the United States of America and provided the invocation for the meeting.

**AGENDA ADOPTION**

**ACTION:** It was a unanimously decision of the Board, to *adopt the agenda as presented by the County Clerk, with the following additions:*

- (1) Pathways: Discuss meeting with area commissioners and consumers (Willie McIntosh)*
- (2) Delete Agenda Item #4: Delay presenting certificate of appreciation to Donna Huie-Brooks until the next regular meeting (Ronald Hawkins)*
- (3) Add to the Consent Agenda as Item H: Directive to the Tax Collector to collect taxes (David Dear)*

**CITIZENS RECOGNITION**

**COMMUNICATIONS TOWER**

*Gary Staymate*, a resident of Morgan Street, stated that while he supports the tower being located wherever is appropriate, he does not understand why "someone in Raleigh" can dictate placement, vetoing a site that city and county officials deem best for the safety of citizen (*referring to the Law Enforcement Center site*). He stated he believes if the tower is located at the Washington Street proposed site it would be visible from the historic Banker's House.

**CONSENT AGENDA**

**APPROVAL OF MINUTES**

There being no corrections, additions, or deletions to the Minutes of *June 21 2005* and *July 5, 2005*, motion was made by Johnny Hutchins, seconded by Jerry Self, and unanimously adopted by the Board, to *approve the minutes as written.*

**TAX ABATEMENTS AND SUPPLEMENTS**

The Tax Assessor provided Commissioners with a detailed written report regarding tax abatements and supplements during *June 2005*. The monthly grand total of tax abatements was listed as (\$14,067.41); and, the monthly grand total for tax supplements was listed as \$11,780.64.

**TAX COLLECTOR'S MONTHLY REPORT**

The Tax Collector provided Commissioners with a detailed written report regarding taxes collected during *June 2005* (copy found on Page \_\_\_\_\_ of Minute Book 28).

**CAPITAL PROJECTS: BUDGET AMENDMENTS (BNA #002)**

**ACTION:** Johnny Hutchins made the motion, seconded by Jerry Self, and unanimously adopted by the Board, *to approve the following budget amendments:*

<i>Account Number/Project Code</i>	<i>Department/Account Name</i>	<i>Increase</i>	<i>Decrease</i>
040.210.4.350.00/10904-5210	Capital Projects-General/State Gov't Grants	\$12,750.	
040.210.5.420.00/10904-5210	Capital Projects-General/Contracted Services	12,750.	

*Explanation of Revisions: To accept contract with McGill Associates to provide a botanical survey of the rehabilitation site and approval of the US Fish and Wildlife Services. No county funds are required as the NRCS will reimburse 100% of the cost.*

**LIBRARY: BUDGET AMENDMENTS (BNA #003)**

**ACTION:** Johnny Hutchins made the motion, seconded by Jerry Self, and unanimously adopted by the Board, *to approve the following budget amendments:*

<i>Account Number/Project Code</i>	<i>Department/Account Name</i>	<i>Increase</i>	<i>Decrease</i>
010.611.4.310.00/45310-6611	Library/Federal Grants	\$64,934.	
010.611.4.460.00/45310-6611	Library/Other Units Shared	10,597.	
010.611.4.991.00/45310-6611	Library/Fund Balance Appropriated	5,915.	
010.611.5.210.00/45310-6611	Library/Departmental Supply	7,592.	
010.611.5.310.00/45310-6611	Library/Travel-Training	7,150.	
010.611.5.910.00/45310-6611	Library/Capital Equipment	62,784.	
010.611.5.894.00/45310-6611	Library/Budget Acc Only-Other Sources	3,920.	

*Explanation of Revisions: To accept funding from the State Library of NC for the Library Services and Technology Grant. This grant will allow for a new web based catalog interface (Bistro) and will replace a server with a Dell, Windows 2003 system. (Note-\$3,920 is in-kind match with directors salary; grant is a 75/25 match.)*

**BOARD OF ELECTIONS: BUDGET AMENDMENTS (BNA #004)**

**ACTION:** Johnny Hutchins made the motion, seconded by Jerry Self, and unanimously adopted by the Board, *to approve the following budget amendments:*

<i>Account Number/Project Code</i>	<i>Department/Account Name</i>	<i>Increase</i>	<i>Decrease</i>
010.418.4.310.00/93617-6418	Board of Elections/Federal Gov't Grants	\$12,442.	
010.418.5.210.00/93617-6418	Board of Elections/Departmental Supply	3,810.	
010.418.5.211.00/93617-6418	Board of Elections/Controlled Equipment	8,632.	

*Explanation of Revisions: To budget the 2005 Supplemental Technology Grant awarded to the Board of Elections. These funds are to be used for the purchase of computers, printers, phones, scanners, and any electronic equipment that will facilitate the voter registration process and help Board of Elections office. All funds not spent by December 31, 2005 are to be refunded to the grantor.*

**LIBRARY: BUDGET AMENDMENTS (BNA #005)**

**ACTION:** Johnny Hutchins made the motion, seconded by Jerry Self, and unanimously adopted by the Board, *to approve the following budget amendments:*

<u>Account Number</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
010.611.4.810.08	Library/Donations	\$199,366.	
010.611.5.990.00	Library/C0-Other Improvements	156,366.	
010.611.5.490.00	Library/Professional Services	3,000.	
010.611.5.210.00	Library/Departmental Supply	15,000.	
010.611.5.899.00	Library/Reserve Funds	10,000.	
010.611.5.894.00	Library/Bud Acc Only-Other Sources	15,000.	

*Explanation of Revisions: To budget construction of the additional section (Children's Library) to be added to the Spangler Branch.*

**TAX COLLECTOR: DIRECTIVE TO COLLECT 2005 TAXES**

**ACTION:** Johnny Hutchins made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to approve the following directive:

*Directive to Tax Collector Linda Wiggins to Collect 2005 Taxes*

You are hereby authorized, empowered and commanded to collect the taxes set forth in the tax books for the year 2005, and all taxes outstanding for tax years 1995 through 2004, as filed in the office of the Tax Collector, and in the receipts herein and herewith delivered to you, in the amounts and from the taxpayers likewise set forth, and such taxes are hereby declared to be a first lien on all real property in Cleveland County; and, this order shall be full and sufficient authority to direct, require and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with the law, and to use, or cause to be used, all remedies provided by law.

Adopted this the 2 day of August 2005.

*/S/ Ronald J. Hawkins, Chairman  
Cleveland County Board of Commissioners*

**COMMUNICATION TOWERS: UPDATE AND OPTIONS**

David Dear, County Manager, reviewed, "This is a commissioner initiated project that has been in progress for a little over a year. The total multi-year project will involve constructing four public safety communications towers and migrating public safety communications in Cleveland County to a digital 800 MHz platform that will be able to communicate with all other local, state and federal agencies that use the 800 MHz format. Joe Cherry, Electronic Maintenance Engineer, has been the coordinator of this effort and he will give you a status report on the project and also answer any questions that you may have . . . "

Joe Cherry, Cleveland County Electronic Engineer, reviewed the project and challenges throughout the process. He reviewed that Cleveland County received a grant to construct three towers, adding that funding to construct the fourth tower which will be necessary from other sources. Currently the emphasis has been focused on the construction of the towers in Boiling Springs, Shelby and Kings Mountain.

Mr. Cherry said the Kings Mountain site “has gone the smoothest.” He stated, “We have had final approval on all the NEPA requirements from the federal government. We have received our FCC license to construct this tower, we have mailed out bid invitations last Friday, bids will be opened September 1, and we should have construction completed within 60-days of the bid award. The City of Kings Mountain was also very gracious and helpful in allowing us to locate the tower on their property at the public works building on North Piedmont. The Kings Mountain Town Council was also agreeable in allowing us to fit the tower within their zoning ordinance.”

He said, “The next site that has made the most progress is the Boiling Springs site. This site will be at our recycling center at 2944 Old Cliffside Road. The county owns about six acres in this tract and we have identified a corner of that property which will be suitable for the tower to be located on. We have filed all of the necessary federal permit requirements. We have received approval from the FAA and the NC State Historic Preservation office. We have not received approval from the US Fish and Wildlife, and also the Cherokee Indian tribe has identified some concerns regarding ancestral burial grounds located in that end of the county. We have a consultant on staff, George Swearingen, who has addressed the board previously and he is working with us on trying to get these concerns addressed. He has made a visit to the site and determined there are no heart leaf plants on the property which was a concern of the US Fish and Wildlife. He has filed a report with them and we are waiting to hear . . . he has also filed the information with the Cherokee Indians and hopefully we will hear something on that site between now and 30-days. As soon as those approvals are received, we will file the FCC application and we will be ready to go.” He said the grading necessary at that site will be accomplished by the county landfill staff.

Regarding the Shelby site, Mr. Cherry advised, “We have received all the authorizations from all the federal agencies involved to construct the site at the Law Enforcement Center, which is our first choice. However, the ruling from the State Historic Preservation Office which says the tower at that location will have an adverse affect on the designated historic properties in the City of Shelby, will keep us from building at that location.” He reviewed that an attorney from Washington DC has been retained, Bennett and Bennett, to advise the county on options regarding possible appeal of the decision. He said the firm has advised “we could probably win the case if we decide to appeal to the FCC . . . however, the appeal process would be lengthy – probably a year to be resolved, and would probably be expensive.” He said the legal firm states that typically in these cases some type of mediation process is mandated, funding for which would come from local funds. Mr. Cherry advised packets of information have been sent to the legislative delegation requesting any assistance they can provide.

He reviewed that the grant dictates the towers be constructed within a certain time frame, so alternate sites have been pursued. He said that Tom Crider, Director of Transportation Administration of Cleveland County (*TACC*) located on Airport Road, has “graciously allowed us to consider putting the tower on their property” an offer which has been approved by the TACC board. Mr. Cherry said the consulting firm has reviewed the environmental agencies criteria for that property and the FAA would allow a 350 foot tower at that site, rather than the 400 foot tower. He said SHPO has approved the site, but approval has not yet been received from the US Fish and Wildlife or the Ancestral Indian Act.

The other site identified is located on North Washington Street on the same property “where an existing tower is located at the old O.E. Ford building which is owned by Magnum Communications in York, South Carolina.” The owner has offered to sell the county a corner of that property, approximately one-half acre, large enough to locate the tower and building, for \$60,000.00. Mr. Cherry said SHPO has approved location of the tower on this site. Mr. Cherry said, “This site will give us better building penetration coverage in medium density buildings because it’s closer to the middle of Shelby and it gives us the 400 foot elevation the engineers say we need to have. It is my recommendation to the Board, that we consider purchasing this property on which to locate the Shelby tower.”

He said, “One of the issues in locating the tower away from the Shelby Law Enforcement (*LEC*) site was the expense involved with the providing the signal connectivity or microwave link between the tower site and the LEC where our 911 center is located. Also, an emergency generator would be needed to locate it away from the LEC. The estimation of that expense was around \$300,000.00. I have been working very closely with Harold Meacombs, who is the head engineer with the NC Highway Patrol on the Viper project, and he has indicated the Highway Patrol will give us the microwave link and emergency generator for this site out of Homeland Security grant money.” He said, “Also, in talking with Mr. Meacombs, we will be sharing at least three of the same sites that the Viper system will be on, which is the statewide system the Highway Patrol is building, and he has indicated they can also furnish us with microwave connectivity between each of our tower sites. This is something we must have to integrate our trunking system into one network. The savings in the state offering to do this for us will be close to \$1 million dollars in stuff we don’t have to buy. This is a very substantial cost savings opportunity for the county and is something the state doesn’t have to do but they have made this nice gesture which shows they are really trying to be a partner in this project. This is a win/win situation for us because not only will they furnish the connectivity, but they will maintain the equipment for us.”

Mr. Cherry emphasized that a construction date will be difficult to determine due to the legal transactions necessary with property purchase; however, he said his best estimate would be 90-days to begin construction on the Washington Street site if selected.

He anticipates construction at the Boiling Springs site to begin within 60-days after final approval is received from the different entities. He noted the Boiling Springs site is located at “our second choice” since the first choice was stopped due to the threat to heartleaf clover, an endangered plant species under the protection of the NC Wildlife and the Corp of Engineers.

The grant deadline is November 31, 2005, but Mr. Cherry feels extensions can be obtained if construction has started.

Commissioners expressed their gratitude to Mr. Cherry for his hard work and dedication to this complicated project which has spanned years.

**ACTION:** Willie McIntosh made the motion, seconded by Jerry Self, and unanimously adopted by the Board, *to accept the Washington Street site at a purchase price of \$60,000.*

**ACTION:** Willie McIntosh made the motion, seconded by Johnny Hutchins, and unanimously adopted by the Board, *to instruct the County Manager to have dialogue with Shelby officials in an effort to have them share 50% of the cost to purchase the property.*

**CONSENSUS:** *It was the unanimous consensus of the Board to instruct Joe Cherry to proceed with filing the appropriate license applications for the site whether Shelby agrees to participate on the funding or not.*

#### **ECONOMIC DEVELOPMENT: MEMORANDUM OF AGREEMENT**

Bill Plowden, Chair-Elect for the Cleveland County Chamber, told Commissioners the Chamber Board of Directors unanimously endorsed the agreement during their regular meeting of July 19, 2005.

Commissioner Hutchins expressed concern regarding the termination clause in the agreement, and other terms of the agreement were discussed. Mr. Plowden and Stuart Gilbert both emphasized they do not anticipate problems “no matter who is seated on the board” and feel that “everyone is on the same wave length.”

**ACTION:** Jerry Self made the motion, seconded by Willie McIntosh, and adopted by a majority vote of the Board, *to approve the Memorandum of Agreement (copy found on Pages \_\_\_\_\_ of Minute Book 28). Votes were recorded as all commissioners voting yes, with the exception of Commissioner Hutchins who voted no. Commissioner Hutchins requested the record show he was not opposed to the contract but is “opposed to the way it’s written.”*

**ACTION:** *Chairman Hawkins appointed Willie McIntosh as the Chair's designee to serve on this newly formed board.*

It was also noted that the Chamber is responsible for developing the bylaws and submitting them to the Board of Commissioners.

**PLANNING DEPARTMENT: EMERGENCY WATERSHED PROGRAM – BRUSHY CREEK AND BEAVERDAM CREEK**

Bill McCarter, Planning Director, reviewed that Cleveland County recently received a grant from the USDA Emergency Watershed Program in the amount of \$360,000 to remove storm debris from Brushy Creek and Beaverdam Creek. Funding is split 75% federal and 25% state.

Mr. McCarter stated, “The original Project Agreement, totaling \$260,000, was accepted by the Board of Commissioners on January 5, 2005. This grant has since been expanded to include an additional \$15,000 to identify endangered species, as requested by the US Fish & Wildlife Service. NRCS will reimburse 100% of this cost. No additional fund will be required from the County.”

He said, “The bid documents were prepared by McGill Associates and distributed to area contractors in May. Bids were delayed while our consultant conducted a survey of the creeks and access routes to identify any presence of Dwarf-flowered Heartleaf (*Hexastylis naniflora*) which is federally and state-listed as threatened for Cleveland County, as required by US Fish & Wildlife. The final bids were submitted on July 21, 2005 (*bid tabulation sheet is found on Page \_\_\_\_\_ of Minute Book 28*).

Mr. McCarter advised, “The low bidder is Kevin Roberson Construction, from Leicester, NC, with a bid of \$235,000. Our consultant indicated that his references were good. He has a Building Contractors License limited to \$350,000. The other two bidders have an unlimited license. Mr. Robertson was also the only contractor to submit a bid under the grant amount. If you choose one of the other bidders, we will need to request an increase in grant amount from the NRCS.”

**ACTION:** Mary Accor made the motion, seconded by Johnny Hutchins, and unanimously adopted by the Board, *to approve the Amendment to the Agreement and accept the additional grant monies and indicated.*

**ACTION:** Mary Accor made the motion, seconded by Willie McIntosh, and unanimously adopted by the Board, *to approve the award of the bid to the low bidder of Kevin Roberson Construction as presented.*

## **COMMISSIONERS REPORTS**

### **PATHWAYS**

Commissioner McIntosh advised that he and Vice-Chairman Self had recently attended a meeting with Pathways consumers and parents who outlined the “lack of services” to children. Commissioner McIntosh suggested a joint meeting of the three county boards of commissioners, parents and consumers to hear their comments. There was discussion regarding the meeting already scheduled for August 18, 2005 and it was determined that meeting will provide the opportunity to accomplish this goal. It was noted that the upcoming meeting was called by Commissioner Accor. Commissioner Accor emphasized this is to be a meeting to hear from consumers, parents, commissioners and legislators, not Pathways staff. Commissioner McIntosh stated he wants “to be sure all commissioners know what’s going on – then we can get together and do something or not.” He said he feels all the board of commission members from the three counties should “know what we have and what is needed.”

### **NATIONAL ASSOCIATION OF COUNTIES (NACo) MEETING IN HAWAII**

Commissioner Accor reported on sessions she attended regarding student advocacy, judicial systems and juvenile systems. She stated one speaker was a juvenile advocate and discussed an Illinois program for first-time youth offenders. Commissioner Accor said she was so inspired by the speaker she has started writing her own program. She said “meth labs” were also discussed stating, “We don’t realize how good we have it here until you look at the nation as a whole.” She said she came back “feeling good about Cleveland County.”

Commissioner Hutchins discussed a prescription discount card which would provide a 20% savings for citizens. More information regarding this program will be forthcoming. He emphasized the importance of “networking” with other commissioners.

Chairman Hawkins discussed the latest technology in voting machines; wireless communications; the Medicare prescription plan and his concern that senior citizens may not understand this mandate. He said he discussed this program today with Libby Shipley, Director of the Senior Center, regarding their efforts to get information distributed to citizens.

### **MILITARY SEND-OFF**

Commissioner Accor reminded Commissioners of the National Guard 505<sup>th</sup> Battalion send off scheduled for 8:00 a.m. on Thursday and encouraged Commissioners to participate.

### **KINGS MOUNTAIN HOSPITAL**

Commissioner Accor and Vice-Chairman Self advised they attended the recent ribbon cutting at the hospital. Commissioners praised John Young, hospital president, for his efforts toward building goodwill in Kings Mountain.



**RAY THOMAS – THOMAS PETROLUM**

Commissioners requested that Ray Thomas be recognized for his efforts in bringing alternative fuel opportunities to Cleveland County, the first commercial sales in North Carolina.

**DUKE POWER**

County Manager David Dear reminded Commissioners of the tour of the Cliffside Duke Power facility scheduled for August 9<sup>th</sup>.

**ADJOURN**

There being no further business to come before the Board at this time, Mary Accor made the motion, seconded by Willie McIntosh, and unanimously adopted by the Board, to adjourn the meeting (at 7:55 p.m.). The next regular meeting of the Commission is scheduled for ***Tuesday, August 16, 2005 at 6:00 p.m.*** in this Commission Chamber.

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*Ronald J. Hawkins, Chairman  
Cleveland County Board of Commissioners*

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*Wanda Crotts, CMC, Clerk  
Cleveland County Board of Commissioners*