

CLEVELAND COUNTY BOARD OF COMMISSIONERS

November 2, 2004

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: Mary S. Accor, Chairwoman
Ronald J. Hawkins, Vice-Chair
Tom Bridges, Commissioner
Willie B. McIntosh, Commissioner
Jerry L. Self, Commissioner
R. L. Alexander, County Manager
Bob Yelton, County Attorney
Wanda Crotts, CMC, County Clerk
Patricia D. Spangler, Deputy Clerk
Bill McCarter, Planning Director
Joy Scott, The Star
Other individual names on file in the Clerk's Office

CALL TO ORDER

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

AGENDA ADOPTION

ACTION: Ronnie Hawkins made the motion, seconded by Willie McIntosh, and adopted by a unanimous vote of the Board, to ***adopt the agenda as presented by the County Clerk, with the following additions:***

- (1) **Extra-Territorial Jurisdiction** (Willie B. McIntosh)
- (2) **Land Use Plan** (Willie B. McIntosh)

CONSENT AGENDA

APPROVAL OF MINUTES

There being no corrections, additions, or deletions to the minutes of ***October 19, 2004***, motion was made by Willie McIntosh, seconded by Tom Bridges, and unanimously adopted by the Board, to ***approve the minutes as written.***

HAZ MAT: BUDGET AMENDMENT (BNA #023)

ACTION: Willie McIntosh made the motion, seconded by Tom Bridges, 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>
10.453.4.310.00	HAZMAT/Federal Government Grants	\$15,202.	
10.453.5.910.00	HAZMAT/Capital Equipment	15,202.	

Explanation of Revisions: Project Code 97004-4400; to accept additional funding from Federal Department of Homeland Security passing through NC Department of Crime Control and Public Safety Division of Emergency Management. The grantor has approved saving from original grant purchases to allow for purchase of vehicle to pull Haz Mat trailer (reference BNP# 028 April 6, 2004).

SOCIAL SERVICES: STAFF ATTORNEY POSITION

ACTION: Willie McIntosh made the motion, seconded by Tom Bridges, and unanimously adopted by the Board, to ***approve that Angela Y. Woods be hired to fill the new DSS staff attorney position***, as recommended by the Social Services Board.

Chairwoman Accor noted that Ms. Woods is a native of Kings Mountain and a graduate of Kings Mountain High School.

CERTIFICATES OF APPRECIATION: WAYNE KING AND BETSY WELLS

Commissioners presented certificates of appreciation to Mr. King and Mrs. Wells. Mr. King served as delegate to the Republican National Convention in September 2004 in New York City, New York. Mrs. Wells served as a delegate to the Democratic National Convention in July 2004 in Boston, Massachusetts.

PLANNING DEPARTMENT: ZONING MAP AMENDMENT - DAVID MORROW (Case #04-13) (South LaFayette Street and Mt. Sinai Church Road) (Request to Schedule Public Hearing on November 16, 2004)

Mr. McCarter reviewed that David Morrow has presented a petition to rezone four areas south of Shelby from Residential (*R*) to General Business (*GB*). The property owners of each area have signed the petition in support of this zoning amendment.

Mr. McCarter advised Area 1 consists of 16 acres located along South Lafayette Street: 2328 South Lafayette Street (*portion of 2 tracts*), 2338 South Lafayette Street, 2404 Carol Street, and 122 Bear Creek Road (*2 tracts*).

He explained this area includes five small parcels and a portion of two larger tracts. A boundary description for the larger tracts will be needed to exclude existing residential structures. This area is currently zoned Residential with the Corridor Protection Overlay. The CP district allows a variety of commercial uses and current land uses include John Thompson Used Cars, a junkyard, and a Frito-Lay warehouse. He said that while auto sales are permitted in the corridor district, auto salvage and warehousing are considered a non-conforming use. Surrounding land uses are predominately rural residential.

Area 2 consists of two acres along South Lafayette Street: 2423 South Lafayette Street and 2426 South Lafayette Street. This area includes two parcels on opposite sides of NC-18. Each parcel contains a concrete block building. This area is currently zoned Residential with the Corridor Protection Overlay. Current land uses are K & J Variety. An arcade may be considered a non-conforming use in the CP district. Surrounding land uses area rural residential.

Area 3 consists of two acres along Mt. Sinai Church Road: 229 Mt. Sinai Church Road and 230 Mt. Sinai Church Road. An auto repair shop is located on each of these tracts. The primary dwelling and remaining vacant land is to be removed from the rezoning request. Surrounding land uses are predominately rural residential. This area is currently zoned Residential. Auto repair may be considered a non-conforming use. The video gaming machines were found to be a violation of zoning and the owner has filed an appeal with the Board of Adjustment.

Area 4 contains one 1-acre along South LaFayette Street: 2534 South LaFayette Street. This property is currently being used as a convenience store and arcade. Surrounding land uses are predominately rural residential. The 18 South Mini-Mart is currently zoned Residential with the Corridor Protection Overlay. The convenience store is a permitted use. Surrounding land uses are predominately rural residential.

Commissioner Jerry Self noted that “ordinarily petitions do not include parcels of this configuration . . . normally the parcels are contiguous.” Mr. McCarter advised this is the first time a petition of this type has been submitted and there is no policy addressing such a petition. He advised the Planning Board has recommended the petition be denied, citing concern over spot zoning. He noted the petitioner could refile separate petitions, but the spot zoning issue would remain a concern.

Mr. McCarter advised the Planning Board recommended that multiple parcels submitted on a single rezoning petition must be contiguous. Bob Yelton, County Attorney, agreed, stating a complete property description should accompany the petition. He stated that multiple tracts on one petition raises many questions, such as whether or not Commissioners would have to grant or deny the entire petition or could they single out certain parcels. There was lengthy discussion regarding various aspects of this type petition, with Commissioner McIntosh expressing concern if the petitioner had to file separate petitions, then he would have to pay a filing fee for each petition.

ACTION: Jerry Self made the motion, seconded by Tom Bridges, ***which failed by a majority vote***, to “set our policy that we consider only one contiguous tract at a time . . . *and that the properties that are a portion*

of the parcel have to have a metes and bounds legal description and that we return this one back to the Planning Director.” Commissioner Self clarified the motion as “basically we won’t have a public hearing, it will go back to be submitted in the correct format . . . that they (each parcel) be an individual zoning question.” After discussion on the motion, it was amended to be “just the policy part of it.” Votes were recorded as Commissioners Self and Bridges voting yes; and, Commissioners Accor, McIntosh and Hawkins voting no.

ACTION: Mary Accor made the motion, seconded by Willie McIntosh, to table “this until we can come back with logistics of what we’re trying to decide.” There was discussion and Chairwoman clarified her motion as being to table “discussion of the policy . . . because that seems to be more of a situation than the public hearing at this point.” She suggested Mr. McCarter bring back to the Board written recommendations for a policy at the next Commission meeting. Mr. Yelton stated, “If you’re going to do that . . . would it not be appropriate to ask the Planning Board to make a recommendation as to policy on this as they deal with this type of thing, somebody needs to come back to you with a recommendation as to what the policy should be . . . either you can put it on Mr. McCarter’s shoulders or you put it on the Planning Board’s shoulders . . . somebody has to come back to you with some type of recommendation as to what policy you might adopt” After that discussion, Chairwoman Accor restated her motion as follows, **“So at this point, I would table it to at a time when Mr. McCarter can come back to us with policy with the aid and assistance of anyone wishing to be a part of that policy making, which be inclusive of the Commissioners . . . this would also include the Planning Board.” This motion was unanimously adopted by the Board.**

ACTION: Tom Bridges made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to **“deny scheduling the public hearing as requested.”**

RESOLUTION: AUTHORIZING THE APPLICATION FOR A NC ECONOMIC INFRASTRUCTURE GRANT FROM THE NC RURAL ECONOMIC DEVELOPMENT CENTER (THE RURAL CENTER)

ACTION: Ronnie Hawkins made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to approve the following resolution.

RESOLUTION

**Authorizing the Application for a NC Economic Infrastructure Grant
from the North Carolina Rural Economic Development Center
(The Rural Center)**

WHEREAS, in July 2004, NC General Assembly appropriated \$20 million to the Rural Center;

WHEREAS, 14M of this money is allocated for granting to local governments for job creating infrastructure projects in the private sector;

WHEREAS, Cleveland County has agreed to provide sewer to the proposed Project Traveler site;

WHEREAS, Cleveland County intends to request grant assistance from the North Carolina Economic Infrastructure Grant for the project.

NOW, THEREFORE, BE IT RESOLVED, by the Cleveland County Board of Commissioners:

1. That, Cleveland County will arrange financing for the remaining costs of the project, if approved for the grant.
2. That, Cleveland County will provide the efficient operation and maintenance of the project on completion of construction thereof.
3. That, R. L. Alexander, County Manager, and successors so titled, is hereby authorized and directed to furnish such information as the Rural Center may request in connection with the application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.
4. That, Cleveland County has substantially complied with all Federal, State, and local laws, rules, regulations and ordinances applicable to the project and to the grants pertaining thereto.

ADOPTED THIS THE 2 DAY OF NOVEMBER 2004.

EXTRA-TERRITORIAL JURISDICTION (ETJ)

Commissioner McIntosh reported that he had recently visited an area of dilapidated buildings where crime is an increasing problem for residents.

He noted this area is inside the City of Shelby's ETJ and they have not enforced the minimum housing code, thereby making this area a sort of "no man's land." Commissioner McIntosh stated the he felt that by virtue of the fact that Commissioners voted to allow the City of Shelby to extend the ETJ area, the Commission bears a responsibility to the residents of those areas to be sure the codes are enforced.

Commissioner Self noted that now that there is countywide zoning in place, further ETJ extensions will not be necessary. Mr. Yelton stated that Commissioners have no authority within the ETJ; however, he suggested that Commissioners meet with Mayor Ted Alexander and encourage city officials to enforce the code in these areas. He noted that the Attorney General has given an opinion on this matter and ruled the City must enforce the code in ETJ areas.

LAND USE PLANNING PROCESS

Commissioner McIntosh advised he and Chairwoman Accor had attended the land use planning public meeting recently held in Lattimore and expressed his concern regarding the lack of public participation. He suggested the consultants conducting the public meetings should advertise the meetings more widely. Chairwoman Accor agreed, stating she fears not enough input from the citizens is being received.

There was discussion regarding various ways of getting the word out to citizens and encouraging more participation. One suggestion was involving the County Association of Governmental Officials (CAGO) members by sending CAGO members a copy of the draft plan, asking them to help inform the public of the plan and the community meetings. It was also suggested that the consultants be made aware of Commissioners concerns.

ACTION: Chairwoman Accor appointed Commissioner McIntosh to meet with the Planning Board to discuss the direction of the land use plan, the community meetings and the importance of public participation.

ADJOURN

There being no further business to come before the Board at this time (6:55 p.m.), Ronnie Hawkins made the motion, seconded by Willie McIntosh, and unanimously adopted by the Board, to adjourn the meeting. The next regular meeting of the Board is scheduled for ***Tuesday, November 16, 2004, at 6:00 p.m.***

Mary S. Accor, Chairwoman
CLEVELAND COUNTY BOARD OF COMMISSIONERS

Wanda Crotts, CMC, Clerk
CLEVELAND COUNTY BOARD OF COMMISSIONERS