

CLEVELAND COUNTY BOARD OF COMMISSIONERS

April 6, 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 (*excused at 6:25 p.m.*)
Tom Bridges, Commissioner
Willie B. McIntosh, Commissioner
Jerry L. Self, Commissioner
R. L. Alexander, County Manager
David Dear, Assistant County Manager/Finance Director
Bob Yelton, County Attorney
Wanda Crotts, CMC, County Clerk
Patricia D. Spangler, Deputy Clerk
Eddie Bailes, Human Resources Director
Bill McCarter, Planning Director
Chris Green, Tax Assessor
Joy Scott, The Star
Jennipher Hammerstein, Cleveland Headline News
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.***

CLEVELAND REGIONAL MEDICAL CENTER: LEASE MODIFICATION

John Young, CRMC Administrator, told Commissioners, "As you are aware, in January we became a new corporation, Kings Mountain Hospital joining Cleveland Memorial Hospital under the new name Cleveland County Healthcare System. As we have come together, we have determined needs at both locations. The majority of the needs at the moment are, quite frankly, at Kings Mountain Hospital. We have developed and submitted a plan to the State for an \$8 million expansion of our surgery and our emergency department areas, a \$500,000.00 expansion to our physical therapy area, and also a \$3.2 million expansion for MRI unit to be located in that hospital. The last project is under appeal from our competitor to the east, so we're not ready to proceed with that project at the moment." He said, "We are very excited about this - this will, I think, allow Kings Mountain Hospital and the Kings Mountain community to really move up to the next level of services."

Mr. Young said, "We've been very busy in Shelby as well. At Cleveland Regional Medical Center, we completed in the last six months a \$5.2 million linear accelerator project in radiation therapy, which really means there are services here that are not surpassed anywhere in the State . . . we've been going through a \$3.2 million core system computer conversion intended to give our physician partners better information as they try to take care of patients with ever increasing complexities."

He said, "We continue to look at what the community needs in acute care services, long-care services, and other types of services such as home health. What we have found is that we have to spend a considerable amount of money in the next few years. We could purchase this out of our reserves or our operating income . . . but we think it makes good economic sense to borrow the money at a low interest rate and maintain our reserves at a higher interest rate." He said, "So, what we would like to put before

you tonight is the notion of going to the Medical Care Commission and borrowing \$40 million that we would want to pay back over the next 30 years. This has gotten support from the initial presentation that we made at the State level. We have looked at it with our auditors and with our finance people and everybody thinks this makes perfectly good sense for us, but as course as part of the lease and as the ultimate owner of the facility, the County Commission must approve such debt issuance. So, what we would like to propose in this resolution, is that you allow us to proceed . . . depending on the interest rates . . . but we want your permission to begin the process to determine if we could in fact borrow that money. We would also, as part of this presentation and as part of this process, like you to consider extending the lease for the 30-years that we would have to pay this money back.” He stated, “In addition to that, we would be changing the amount we pay to the county from \$1.3 million to \$1.45 million over the next 30-years. The county would be totally protected in that the hospital would pay this amount, but there is also a relationship with the Carolinas Healthcare System that would guarantee this amount.”

ACTION: Willie McIntosh made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to ***approve the resolution “Approving the Incurrence of Indebtedness Relating to Bonds Issued for the Benefit of Cleveland County Healthcare System and Lease Agreement Addendum” found on Pages _____ of Minute Book _____.***
ECONOMIC DEVELOPMENT PROJECT: PROPERTY ACQUISITION (687 Washburn Switch Road, Shelby) (Schedule public hearing for April 20, 2004)

ACTION: Ronnie Hawkins made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to ***schedule a public hearing as requested for April 20, 2004 at 6:00 p.m.*** regarding the possible acquisition of approximately 100.52 acres owned by Clorox Realty Company located at 687 Washburn Switch Road, Shelby.

VICE-CHAIRMAN RONALD HAWKINS: FORMALLY EXCUSED FROM REMAINDER OF MEETING

ACTION: Willie McIntosh made the motion, seconded by Tom Bridges, and unanimously adopted by the Board, to ***formally excuse Vice-Chairman Hawkins from the remainder of the meeting (6:25 p.m.).***

CONSENT AGENDA

APPROVAL OF MINUTES

There being no corrections, additions, or deletions to the minutes of ***March 16, 2004***, motion was made by Willie McIntosh, seconded by Tom Bridges, and unanimously adopted by the Board, to ***approve the minutes as written.***

HEALTH DEPARTMENT: REQUEST FOR APPROVAL TO HIRE PHYSICIAN EXTENDER II AT SALARY GRADE 77, STEP 7B

ACTION: Willie McIntosh made the motion, seconded by Tom Bridges, and unanimously adopted by the Board, to ***approve the hire of Jill S. Parker as a Physician Extender II at Salary Grade 77, Step 7b as requested.***

CRIMINAL JUSTICE PARTNERSHIP PROGRAM APPLICATION FOR CONTINUATION OF IMPLEMENTATION FUNDING

ACTION: Willie McIntosh made the motion, seconded by Tom Bridges, and unanimously adopted by the Board, to ***approve the application for FY 2005 (July 1, 2004 to June 30, 2005) of Grant Number 23-0704-I-A.***

EMERGENCY MANAGEMENT BUDGET AMENDMENT: HAZMAT/HOMELAND SECURITY GRANT (BNP# 028)

ACTION: Tom Bridges made the motion, seconded by Tom Bridges, and unanimously adopted by the Board, to **approve the following project budget ordinance.**

<u>Account Number</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
010.453.4.310.00	HAZMAT/Federal Government Grants	\$363,601.	
010.453.5.210.00	HAZMAT/Departmental Supply	55,934.	
010.453.5.211.00	HAZMAT/Controlled Property Exp.	12,335.	
010.453.5.910.00	HAZMAT/Capital Equipment	295,332.	

Explanation: To accept funds from the Federal Department of Homeland Security passing through the NC Department of Crime Control and Public Safety, Division of Emergency Management. Grant will allow for reimbursement of costs associated with purchasing equipment for conducting exercises and training for chemical, biological, radiological, nuclear and explosive terrorism events. Funding is at 100% - no county match.

CLEVELAND COUNTY CLOSE THE GAP CORE GROUP - RECOGNITION

Commissioners presented an engraved plaque to the Core Group members, expressing their appreciation for the commitment and dedication this group has shown toward their mission of making Cleveland County a leader in closing the achievement gap, so that all groups of students, regardless of race, are achieving at high levels and standards.

Chairwoman Accor, who is a member of the Core Group, provided the following background information regarding the group.

“Founded and organized in 1999 by concerned citizens to raise awareness, mobilize community-wide support and involvement. The initiative brought together educators, community leaders, parents, elected officials, faith community and business leaders to address the persistent underachievement and academic failure among many at-risk and minority students. The community-wide initiative led to a series of activities, programs and community meetings designed to stimulate dialogue and participation and commitment to action.”

She explained this is a part of North Carolina’s effort to be “First in Education.” She also reviewed some of the numerous programs sponsored by the group, noting they received the North Carolina Association of County Commissioners’ Community Award in August 2002 and were recognized by Governor Hunt at the National School Board C.U.B.E. Conference in October 2003.

CLEVELAND COUNTY EMPLOYEE SERVICE AWARDS (2004 - 1ST QUARTER)

The following employees were recognized for their years of service:

5-Years of Service

Cliff Irvin, Jr. (Sheriff’s Office)
Ricky E. Shuford (Sheriff’s Office)
Deborah J. Clapper (Health Department)
Patricia B. Jenkins (Social Services)
Mary R. Rabb (Social Services)
John M. Wasson (Social Services)
Mechele S. Yarbrow (Social Services)
William D. Trammel (EMS)
Tracy J. Oaks (911/Communications)

10-Years of Service

Linda E. Wiggins (Tax Collections)
Cholia B. Cherry (Health Department)
Shirley R. Wacaster (Health Department)
Peggy A. Ross (Social Services)

15-Years of Service

Katherine S. Lovelace (EMS)
Betsy S. Crow (Social Services)
Revonda R. Hicks (Social Services)
Paula R. Parker (Social Services)
Carolyn L. Morris (Health Department)

20-Years of Service

Anna B. McCall (Tax Assessor)

25-Years of Service

Dorothy O. Richardson (Social Services)

Rodella G. Gold (Health Department)

**6:00 PUBLIC HEARING: TRANSPORTATION ADMINISTRATION OF CLEVELAND COUNTY (TACC)
RURAL OPERATING ASSISTANCE PROGRAM**

ACTION: Willie McIntosh made the motion, seconded by Tom Bridges, and unanimously adopted by the Board, to open the public hearing. (*Public notice of this hearing was published in the Star on March 19, 2004.*)

Tom Crider, TACC Director, reviewed the information, emphasizing these funds are administered by the county at no cost to the county. Hearing no comments, Chairwoman Accor declared the public hearing closed.

ACTION: Willie McIntosh made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to **approve the resolution found on Page _____ of Minute Book _____.**

**PLANNING DEPARTMENT: CODE TEXT AMENDMENT - TABLE OF PERMITTED USES -
MANUFACTURED HOME PARKS (Case #04-04)**

ACTION: Tom Bridges made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to **open the public hearing.** (*Public notice of this hearing was accomplished in accordance with NCGS 153A-343, with legal ads published in the Star on March 24 and March 31, 2004.*)

Mr. McCarter reviewed the changes recommended by the Planning Board as follows:

Table of Permitted Uses:

Manufactured Home Parks have been permitted as a conditional use in the Residential (R) district since September 9, 2001. This change was not incorporated into the current Table of Uses. The Planning Board also recommended adding two uses to the Corridor Protection District. The purpose of this district was to allow commercial uses to develop along major highways without the need for rezoning. Used Merchandise was added as a conditional use and Wireless Telecommunications (cell towers) was added as a permitted use.

Manufactured Home Parks:

The Board is also recommending a change in the design standards for manufactured home parks. Currently, we require a plan to be prepared by a surveyor, dividing up the property into individual lots. This survey is required to verify that the minimum lot size is met. We feel this level of detail is not necessary since the lots will not be sold. Therefore, the Board has recommended we review new parks based on density, units per acre. This change would allow the developer the flexibility of clustering these units to maximize the use of the property for soils, topography, access, etc.

After much discussion regarding the cell tower portion of the permitted uses, specifically if this would interfere with the Shelby Airport, it was determined that further study of this portion of the proposed amendments was needed and a decision should be delayed.

ACTION: Willie McIntosh made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to **close the public hearing.**

ACTION: Willie McIntosh made the motion, seconded by Tom Bridges, and unanimously adopted by the Board, to **(1) table the "Table of Permitted Uses" portion of the proposed amendments; and, (2) approve the "Manufactured Home Parks" amendments as follows:**

ARTICLE IX. SPECIAL REQUIREMENTS

Section 12-156. Manufactured Home Parks

b Density

- (1) Two (2) units per acre if served by well and septic tanks.
- (2) Three (3) units per acre if served by public water.
- (3) Five (5) units per acre if served by public water and public sewer.

These densities are considered to be maximum area requirements and may be decreased due to the watershed density restrictions or requirements for placement of well and septic systems as determined by the County Health Department or other governmental authority.

- c Setbacks from each unit.
 - (1) Twenty (20) feet from internal street
 - (2) Thirty (30) feet from public street
 - (3) Forty (40) feet from arterial highway
 - (4) Fifteen (15) feet from property line
 - (5) Twenty (20) feet between dwelling units

MOORESBORO: ZONING ENFORCEMENT

Bobby Watson, Mayor of Mooresboro, advised that the Mooresboro Town Council is requesting that the Cleveland County Planning Department assist them in planning and zoning efforts within the town limits. He stated, "We would also request that the Cleveland County Planning and Zoning Department enforce the zoning within the town limits of Mooresboro in cooperation with the county-wide planning and zoning ordinances of Cleveland County."

Mr. Watson advised this request is an effort to be consistent with the current planning and zoning plan of Cleveland County, stating the Mooresboro Town Council members do understand they will need to address rezoning issues and conduct any public hearings.

ACTION: It was the unanimous consensus of the Board to *instruct Mr. McCarter to proceed with developing an agreement for Mooresboro to review and then, once adopted, bring back to the Commission for final consideration.*

PLANNING DEPARTMENT: REDMAN ROAD (SR 1968) - FINAL ORDER - ABANDON A PORTION OF THE PUBLIC RIGHT-OF-WAY

Mr. McCarter advised the appropriate right-of-way agreements have been signed (*reference Minutes of March 16, 2004*).

ACTION: Jerry Self made the motion, seconded by Willie McIntosh, and unanimously adopted by the Board, to ***adopt the following resolution.***

NUMBER 07-2004

RESOLUTION
FINAL ORDER TO ABANDON A PORTION OF THE PUBLIC
RIGHT-OF-WAY REDMAN ROAD (SR 1968)

WHEREAS, the Board of County Commissioners of Cleveland County, North Carolina, have received a petition from property owners adjoining ***REDMAN ROAD (SR 1968)***, requesting that the public right-of-way (*approximately 0.17 miles*) be abandoned; and,

WHEREAS, the Cleveland County Board of Commissioners held a public hearing on March 16, 2004 to receive public comment regarding the proposed abandonment.

THEREFORE, BE IT RESOLVED, THAT THE CLEVELAND COUNTY BOARD OF COMMISSIONERS, in accordance with the mandates of NCGS 153A-241, do hereby order the abandonment of a portion of the public right-of-way (*approximately 0.17 miles*) for ***REDMAN ROAD (SR 1968)***, and that a copy of this order be filed in the Office of the Register of Deeds.

ADOPTED THIS THE 6 DAY OF APRIL 2004.

/S/ Mary S. Accor, Chairwoman
Cleveland County Board of Commissioners

CLEVELAND COUNTY ELECTRONIC COMMUNICATIONS POLICY

Eddie Bailes, Human Resources Director, stated, "For over 10-years, Cleveland County has utilized the Internet and email to enhance the county's productivity and organizational efficiency. During much of this time, our Internet access has been routed through a State network. As a result, we have been operating under a very brief and outdated Internet policy created by the State many years ago."

He said, "Over time, the uses of the Internet and email have grown substantially. With this growth, we have found a need to identify and define specific guidelines for employee use. The electronic communications policy presented to you this evening for your consideration was a creation in collaboration with Mary Gold (*IT Director*) and Joe Cherry (*Electronic Communications Director*). This policy provides employees and management with guidelines regarding the use of computers, including the Internet and email, which will enhance productivity and the security of our systems and network. Included in this policy are statements defining the proper use of county telephones, pagers, cell phones, and other electronic devices."

ACTION: Tom Bridges made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to ***adopt the policy*** (found on Pages _____ of Minute Book _____).

CLEVELAND COUNTY MINIMUM QUALIFICATIONS FOR THE OPERATION OF COUNTY OWNED MOTOR VEHICLES AND PRIVATELY OWNED VEHICLES WHILE CONDUCTING COUNTY BUSINESS POLICY

Mr. Bailes stated, "During the county's employees' recruitment process, we review background information before an offer of employment. One of the components of this process for prospective employees who will operate either a county vehicle or their own private vehicle while performing county business, involves an evaluation of their driving record. In the past, this evaluation was based on the best judgment of the departments, often in consultation with Human Resources. Questions have arisen regarding the need for minimum qualification standards in order to properly evaluate the applicants driving record."

Mr. Bailes stated, "The policy presented to you this evening has been created based on comparisons of several other cities and counties. Several county departments have reviewed and approved these criteria. This policy will also apply to current staff as well as applicants for employment."

ACTION: Jerry Self made the motion, seconded by Tom Bridges, and unanimously adopted by the Board, to ***adopt the policy as submitted*** (copy found on Pages _____ of Minute Book _____).

EQUALIZATION AND REVIEW HEARINGS

ACTION: It was the unanimous consensus of the Board to set ***April 28, 2004 at 2:30 p.m. and May 27, 2004 at 3:00 p.m. as dates for Equalization and Review hearings.***

PLANNING DEPARTMENT: RIDGEFIELD ROAD - PRELIMINARY ASSESSMENT RESOLUTION (Request to set public hearing for May 4, 2004)

ACTION: Tom Bridges made the motion, seconded by Willie McIntosh, and unanimously adopted by the Board, to ***approve the resolution*** (copy found on Page _____ of Minute Book _____) ***and schedule the public hearing as requested.***

DRIVE-IN THEATERS: DISCUSSION CONTINUED FROM APRIL 16, 2004 MEETING

Bill McCarter stated, "At your last meeting, we discussed amending Section 5-1 of the County Code. This regulation is not part of the zoning code, but rather a police power ordinance related to public safety. Since your legislative authority to amend such an ordinance is derived from public safety rather than from land use, several issues arose during the discussion that required further research." These issues are identified below:

Least Expensive Alternative:

Vegetative Buffer (\$1,500) - Leyland Cypress could be planted along the existing wood panels at intervals of ten feet, 500 linear feet of 3 gallon plants cost approximately \$1,500 installed. These trees would reach 20+ feet in height at maturity, but take 5-6 years to reach the height of the existing wood panels. Mr. Stinnett uses a planted buffer to block the screen at his theater in Bessemer City, but due to the sloping terrain a 4-6 foot shrub is adequate to block this screen.

Man-Made Buffer: (\$6,500) - Missing or damaged plywood panels could be replaced, but at a much higher cost, estimated between \$5,500 to \$6,500.

NCDMV Comments:

NC Highway Patrol office here in Shelby indicated no accidents on US 74 in front of the Sunset Drive-In in the last 15 years that were attributed to a motorist being distracted by the movie screen.

NCDOT Comments:

State law prohibits shining a light toward the highway and impairing the vision of motorists. The NC Highway Patrol enforces the following regulation: *NCGS 136-32.2 - If any person, firm or corporation shall place or cause to be placed any lights, which are flashing, moving, rotating, intermittent or steady spotlights, in such a manner and place and of such intensity which, by the use of flashing or blinding lights, blinds, tends to blind and effectively hampers the vision of the operator of any motor vehicle passing on a public highway he (or it) shall be guilty of a Class 3 misdemeanor.*

Regulations in Other Counties:

I requested information concerning standards for drive-in theaters from each of the counties in the State through our email network. Durham County was the only county to respond. Their code also states that the "screen shall not be visible from any public street," but they have not been forced to make an interpretation of how this standard is to be met. I have also contacted the surrounding counties by phone and found no regulations pertaining to a drive-in theater. In fact, the only drive-in theater still in existence was the other facility owned by Mr. Stinnett in Gaston County.

No Regulation Alternative:

If you chose to void Section 5-1, what effect would this have on the existing theater? No lights would be required and he could even tear down the wood panels that remain as a partial barrier between the road and screen.

Proposed Amendment:

Section 5-1 Visibility of drive-in theater screens to motorists.

- (a) It shall be unlawful **to establish, operate, or maintain** (for any person operating) a drive-in motion picture theater (to establish, operate or maintain a theater screen) in the vicinity of any public street or highway, **unless a vegetative or man-made buffer is maintained to prevent** (in such a manner that) the surface of such theater screen upon which pictures **may be** (are being) projected, **from being** visible to any person operating a motor vehicle upon such street or highway.

Chairwoman Accor opened the floor for citizen comments. Those speaking in favor of the amendment were:

Mel Lockhart
Ellen Lockhart
Mel Lockhart, III
Benjamin Lee

Those speaking in opposition to the proposed amendment were:

Rick Stinnett

Commissioners discussed various aspects of this issue, such as: a physical barrier is needed since the lights are not accomplishing the task of blocking the screen; the fact that Mr. Stinnett complied with the existing law by installing the lights; the question of grandfathering if the ordinance is amended; the word "obstruction" and the different ways that can be interpreted; the issues with the Skyvue Drive-In were with safety not the type movies being shown. Mr. Yelton clarified that the ordinance says "seen from the street" not from the neighbor's yard.

ACTION: Willie McIntosh made the motion, seconded by Mary Accor, but was ***defeated as a tie vote*** (Commissioners Bridges and Self voted no), to set up a test situation to see if the screen can be seen from the street.

Mr. Yelton advised the Sheriff will need to determine if the drive-in is or is not in compliance with the current code. Mr. McCarter advised that on September 20, 2003, the Sheriff's office determined the drive-in was not in compliance and a violation was issued.

ISOTHERMAL PLANNING AND DEVELOPMENT COMMISSION BOARD OF DIRECTORS

ACTION: Tom Bridges made the motion, seconded by Willie McIntosh, and unanimously adopted by the Board, to ***reappoint Joe Hendrick to serve as a member of the Isothermal Planning***

and Development Board of Directors. The term of this reappointment is for a period of three-years, scheduled to conclude April 30, 2007.

ADJOURN

There being no further business to come before the Board at this time (8:06 p.m.), Willie McIntosh made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to adjourn the meeting. The next regular meeting of the Board is scheduled for **Tuesday, April 20, 2004, at 6:00 p.m.**

Mary S. Accor, Chairwoman
CLEVELAND COUNTY BOARD OF COMMISSIONERS

Wanda Crotts, CMC, Clerk
CLEVELAND COUNTY BOARD OF COMMISSIONERS