

CLEVELAND COUNTY BOARD OF COMMISSIONERS

May 4, 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
David Dear, Assistant County Manager/Finance Director
Bob Yelton, County Attorney
Wanda Crotts, CMC, County Clerk
Patricia D. Spangler, Deputy Clerk
Bill McCarter, Planning Director
Joy Scott, Star
Jennifer 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.***

CITIZENS RECOGNITION

CLEVELAND COUNTY SEAL IN COMMISSION CHAMBER

Harlow L. Brown, a member of the Cleveland County Board of Health, told Commissioners "It is with great honor and humbleness that I was selected to make the county seal that will hang in this Chamber. I have, over the course of time in crafting this seal, realized that the different aspects of life represented on the seal are needed, and in proper balance, to assure that Cleveland County is and remains a great place to live and work." Mr. Brown stated, "The barn represents the county's agriculture; the mill represents industry; the church represents faith; the scale shows that there needs to be a balance of all three. The seal is made from the best hardwoods available from all over the world, several from right here in Cleveland County. They include Black Walnut, Ebony, Lacewood, Maple, Oak, Cyprus, and Wenge. The seal is mounted on a map of North Carolina, with the county shown thereon and is all to scale." He said, "I trust the Commissioners and the county citizens will be pleased with this crafted work."

CONSENT AGENDA

APPROVAL OF MINUTES

There being no corrections, additions, or deletions to the minutes of ***April 20, 2004***, motion was made by Jerry Self, seconded by Tom Bridges, and unanimously adopted by the Board, to ***approve*** the minutes as written.

FOREST RANGER'S REPORT: July 1, 2003 - March 31, 2004

ACTION: Jerry Self made the motion, seconded by Tom Bridges, and unanimously adopted by the Board, to ***accept the report as submitted*** (copy found on Pages _____ of Minute Book 28).

BOILING SPRINGS RESCUE SQUAD FRANCHISE AGREEMENT RENEWAL

ACTION: Jerry Self made the motion, seconded by Tom Bridges, and unanimously adopted by the Board, to **approve the franchise as submitted** (copy found on Pages _____ of Minute Book 28).

RECOGNITION OF "A FRESH START" ORATORICAL COMPETITION FINALISTS

Commissioners presented certificates of appreciation to the following teachers who assisted students in their preparation for the oratorical competitions:

- Beverly Ledford - 5th Grade Teacher - Fallston Elementary
- Mary Frye - Principal - Fallston Elementary
- Coleman Hunt - Principal - Washington Elementary

Certificates of recognition were presented to the following students who were competition winners:

Elementary Girls Category

- First Place: Ashlyn Hunt - Washington (2nd grade)
- Second Place: Jalisa Perry - Marion (4th grade)
- Third Place: Nykia Perry - Graham (3rd grade)

Elementary Boys Category

- First Place: Keinan McIntosh - Fallston (5th grade)

Middle School Girls Category

- First Place: Diamond Jones - Shelby Middle (6th grade)
- Second Place: Erica Hoskins - Shelby Middle (6th grade)
- Third Place: Amber Robbs - Shelby Middle (7th grade)

Middle School Boys Category

- First Place: Austin Hunt - Crest Middle (6th grade)
- Second Place: Allen Donte Nance - Crest Middle (6th grade)
- Third Place: Larry Raper - Shelby Middle (7th grade)

High School Girls Category

- First Place: Baird Blackley - Shelby High (12th grade)

High School Boys Category

- First Place: Patrick Murray - Shelby High (12th grade)
- Second Place: Sherod Thurman - Shelby High (9th grade)

ACTION: Willie McIntosh made the motion, seconded by Tom Bridges, and unanimously adopted by the Board, **to adopt the following resolution of appreciation presented to Dr. and Mrs. Irving Williams, founders of the competition.**

Number 11-2004

**RESOLUTION IN APPRECIATION OF
DR. IRVING WILLIAMS AND HIS WIFE MRS. GLORIA WILLIAMS**

WHEREAS, Dr. Irving Williams, and his wife Mrs. Gloria Williams, are responsible for the creation of a nonprofit organization called Fresh Start.

WHEREAS, Fresh Start is an initiative by concerned citizens to address some of the developmental and learning difficulties facing the young residents of the community.

WHEREAS, Fresh Start was sparked by a burning desire, based on Christian principals. The Search Institute 40 Developmental Assets is utilized to identify and protect young people from a wide range of risky behavior, violence, alcohol use, and low self-esteem. Most importantly, it measures aspects of a child's support system as empowerment concepts, outlining boundaries, expectations, constructive use of time, commitment to learning, establishing positive values, social competition and development of positive identity.

WHEREAS, Dr. Williams and his wife Gloria are responsible for organizing a Fresh Start Board who organized the oratorical competition. The oratorical competition allows youngsters the opportunity to express themselves and gain confidence in their abilities.

WHEREAS, other objectives of the contest include the development of leadership qualities, the ability to think and speak clearly and intelligently and the preparation for acceptance of the duties and responsibilities, the rights and privileges of American Citizenship.

NOW, THEREFORE, BE IT RESOLVED that the Cleveland County Board of Commissioners hereby express their gratitude for the many accomplishments of Dr. and Mrs. Irving Williams, as well as for their unending dedication and loyal service to Cleveland County.

Adopted this 4th day of May 2004.

(Original signed by each Commissioner)

PLANNING DEPARTMENT: 6:00 P.M. PUBLIC HEARING ZONING MAP AMENDMENT - SILAS MASK (Case 04-03) (400 Mt. Sinai Church Road, Shelby)

Bill McCarter, Planning Director, explained that Silas Mask has presented a petition to rezone approximately 0.77 acres located at 400 Mt. Sinai Church Road from Neighborhood Business (NB) to General Business (GB). Mr. McCarter stated, "You may remember this property was recently rezoned from Residential (R) to Neighborhood Business (NB) on January 6, 2004 and the Board of Adjustment issued a Conditional Use Permit to sell used cars on January 29, 2004."

Mr. McCarter reviewed the following background information regarding this case:
Existing Land Use: A convenience store has been located on this property for many years, and this rezoning would allow a wide variety of commercial uses to develop on this property. Surrounding land uses are predominately residential.

Future Land Use: Expanding residential.

Utilities: CCSD has a 6" water line available along Mt. Sinai Church Road.

Transportation: These streets are not classified by NCDOT.

Planning Consultant Recommendation: Deny

Chuck Nance

Isothermal Planning Commission

After reviewing the application and visiting the location, it is my opinion that the commercial zoning should stay as it is. The land use plan calls for expanded residential and all of the uses around the property in question are either vacant or residential. The property is more suited for Neighborhood Business than for General Business

Planning Board Recommendation: Deny

John McCulloch, Chairman

The Planning Board voted unanimously to deny this request, based on spot zoning, technical aspects of the request, and consistency with other decisions by the board.

Spot zoning: Rezoning a single property to a use that would allow this property owner certain privileges that the neighboring properties do not enjoy, may be found by the courts to be arbitrary and capricious, therefore invalidating the rezoning.

Does Not Conform with the Land Use Plan: This area is indicated as "Expanding Residential" on the 2005+ Projected Land Use Plan. Rezoning to a more intensive commercial use should be in an area designated as Expanding Commercial/Industrial.

Surrounding Properties: Adjoining properties are predominately residential.

Non-Conforming Uses: The existing convenience store is a permitted use in the Neighborhood Business (NB) zoning district.

ACTION: Ronnie Hawkins made the motion, seconded by Willie McIntosh, and unanimously adopted by the Board, **to open the public hearing.** *(Notice of this hearing was accomplished in by legal advertisement published in the Star on April 21, 2004 and April 28, 2004.)*

The following is a list of the people who spoke:

Michael Issac *(opposed)*

Micky Corry *(opposed)*

Silas Mask *(petitioner - support)*

Brian Gold *(petitioner's attorney - support)*

James Maddox *(opposed)*

Linda Kay Mintz *(opposed)*

Joyce Morrow Coleman *(opposed)*

Lynette Hall Williamson *(opposed)*

Claytenna Camp *(opposed)*

John McCullough, Chairman of the Planning Board, reviewed the Planning Boards recommendation and the reasoning behind their decision.

ACTION: Tom Bridges made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, to ***close the public hearing.***

ACTION: Tom Bridges made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to ***deny the petition to rezone the property.***

PLANNING DEPARTMENT: 6:00 P.M. PUBLIC HEARING - PAVING ASSESSMENT - RIDGEFIELD ROAD

ACTION: Ronnie Hawkins made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to ***open the public hearing.*** (*Notice of this public hearing was accomplished in accordance with NCGS 153A-194. A legal advertisement was published in the Star on April 21, 2004.*)

Mr. McCarter reviewed that the North Carolina Department of Transportation has approved the addition of Ridgefield Road to the state highway system for maintenance. He advised the assessment process requires that two public hearings be held. At the first public hearing on August 6, 2002, the Assessment Resolution identified 19 lots to be assessed, being those lots show on Phase 3 of the Chatfield Farms subdivision recorded in Plat Book 18, Pages 50-51. The two corner lots were not included in this proposal. The resolution was adopted and the paving bid was awarded to Kennedy Concrete & Utilities.

Mr. McCarter said, "The purpose of the second public hearing is to confirm the amount to be assessed against each lot. The Board may cancel, increase, or reduce the assessment on each property as may be needed to comply with the basis of assessment which is an equal rate per lot (NCGS 153A-195)." He reviewed the final costs as itemized below:

FR Ledford & Associates - Design plan and profile: \$1,238.00

FR Ledford & Associates - Right of way plat: \$180.00

David Ledford - Erosion Control Plan: \$738.00

NCDEHNR - Erosion Control Permit: \$120.00

Kennedy Concrete & Utilities: \$59,942.92

Cleveland County - Administrative Fee: \$2,340.00

Total Costs: \$71,498.99

Cost per lot (19 lots): \$3,763.10

Linda Tesseneer Hallsey told Commissioners she was of the impression after the last public hearing that the two corner lots would also be assessed. She felt that property had also been improved by the paving and therefore those property owners should also share in the cost of paving.

Roger Hallsey supported his wife's statements, saying he felt the corner lots benefitted enough from the paving to substantiate their being included in the assessment.

There was discussion as to what had transpired at the previous public hearing and what was or was not to be included in the assessment roll, as well as the need to be consistent when assessing this type lot. It was decided to delay a decision until Mr. McCarter could research the minutes of the previous public hearing.

ACTION: Willie McIntosh made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, ***to continue this public hearing until May 18, 2004 at 6:00 p.m.***

PLANNING DEPARTMENT: ZONING MAP AMENDMENT - John McBrayer (Case 04-06) (Along US-74) (Request for public hearing on June 1, 2004 at 6:00 p.m.)

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

PLANNING DEPARTMENT: CODE AMENDMENT - Edmond G. Howard, Jr. (Request for public hearing on June 1, 2004 at 6:00 p.m.)

There was discussion as to the appropriateness of a duplex being built, even as a conditional use, in a Restricted Residential (*RR*) zoning district. It was noted that these type structures are usually used as rental properties and do not fit the character established by this type zoning district.

ACTION: Jerry Self made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, ***to deny the petition.***

ACTION: Jerry Self made the motion, seconded by Willie McIntosh, and unanimously adopted by the Board, ***to refer all text amendments to the Planning/Zoning/Development Ordinance to the Planning Board for their review and recommendation prior to coming to the Board of Commissioners for consideration, excluding video gaming amendments (reference April 20, 2004 minutes).***

MISCELLANEOUS BUSINESS

KINGS MOUNTAIN“THANKS FOR THE MEMORIES”

Vice-Chairman Hawkins stated, “I just wanted to acknowledge the work that you (*Chairwoman Accor*) did last night at the school in Kings Mountain . . . thanks for the memories, since the Kings Mountain Schools are no longer going to be the Kings Mountain District Schools in a few days, and Mary put on a program last night, and we honored all the people and services, and it was a great program and a good job.”

CELEBRATE OLDER AMERICAN WEEK (MAY 10-14, 2004)

Chairwoman Accor noted the Senior Center has activities planned to celebrate this special week.

NORTH SHELBY STUDENT RECOGNITION

Chairwoman Accor shared a “thank you note” from Kierra Bostic, a North Shelby student, who thanked Commissioners for their recent visit to the school. Chairwoman Accor noted that Miss Bostic is an important helper at the school, assisting fellow students in “getting their shoes and socks on each day.”

RECESS TO RECONVENE AT A TIME AND PLACE CERTAIN

ACTION: Ronnie Hawkins made the motion, seconded by Willie McIntosh, and unanimously adopted by the Board, to recess this ***meeting (at 7:20 p.m.) to reconvene at the time and place certain of Thursday, May 6, 2004 at 9:00 a.m. for the purpose of budget hearings for fiscal year 2004-2005.***

Mary S. Accor, Chairwoman
CLEVELAND COUNTY BOARD OF COMMISSIONERS

Wanda Crotts, CMC, Clerk
CLEVELAND COUNTY BOARD OF COMMISSIONERS