

CLEVELAND COUNTY BOARD OF COMMISSIONERS

February 1, 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
Sherry Evans, County Manager's Office
Bill McCarter, Planning Director
Eddie Bailes, Human Resources Director
Chris Crepps, Finance Director
Alex Caban, Cleveland Headline News
Robert Williams, Citizens for Good Government
Other individual names on file in the Clerk's Office

CALL TO ORDER

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

AGENDA ADOPTION

ACTION: Mary Accor made the motion, seconded by Johnny Hutchins, and adopted by a unanimous vote of the Board, to ***adopt the agenda as presented by the County Clerk, with the following additions:***

- (1) **SOCIAL SERVICES UPDATE** (Mary Accor)
- (2) **PLANNING: SCHEDULE PUBLIC HEARING** (David Dear)

CITIZEN RECOGNITION

CO-OPERATIVE EXTENSION

Greg Traywick, Director, introduced Extension staff members. He advised that Cooperative Extension services are moving in the direction of becoming more "problem focused" rather than "program focused." He invited Commissioners and citizens to assist the staff in identifying critical issues in the county in which they could assist citizens.

MEDIATION CENTER OF THE SOUTHERN PIEDMONT

Jan Mahannah, Executive Director, stated that "Since 1997, the Mediation Center has provided services from their Charleston Place offices." She reported there have been over 3,600 cases referred, including 380 children referred to juvenile mediation, 432 adult mediation referrals, 150 families referred to truancy mediation, and 2,600 worthless checks. She said that 29 cases mediated were not worked out in mediation and were returned to court.

Ms. Mahannah reviewed the assistance provided in Gaston and Lincoln counties and requested Commissioners consider one of the following options to assist them in Cleveland County:

- (1) Remain at Charleston Place where they are limited in space and receive \$10,000 from Cleveland County.
- (2) Move to larger rented space closer to the courthouse and receive \$10,000 from the county.
- (3) Move to county space some distance from the courthouse and receive funding for the additional mileage to travel to the courthouse at least once each work day (\$800+).
- (4) Move to county owned space somewhere near the courthouse.

She advised they need three rooms with storage space and access to a conference room and waiting area.

David Qualls and Judge Larry Wilson reiterated Ms. Mahannah's comments. Commissioner Accor commended the Mediation Center staff for their "valuable service with truancy."

Commissioners suggested they contact the municipalities for possible assistance.

CONSENT AGENDA

APPROVAL OF MINUTES

There being no corrections, additions, or deletions to the minutes of **January 4, 2005**, motion was made by Jerry Self, seconded by Willie McIntosh, and unanimously adopted by the Board, to **approve the minutes as written.**

HISTORIC PRESERVATION COMMISSION APPOINTMENTS

ACTION: Jerry Self made the motion, seconded by Mary Accor, and unanimously adopted by the Board, to **appoint Brownie Plaster and Fred Blackley to serve four-year terms as municipal jurisdiction representatives** (term concludes on February 2009).

ACTION: Willie McIntosh made the motion, seconded by Mary Accor, and unanimously adopted by the Board, to **appoint Tom Bridges and Libby Sarazen to serve two-year terms as county jurisdiction representatives** (term concludes February 2007).

ACTION: Willie McIntosh made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to **appoint Milt Holloman to serve a two-year term as a municipal jurisdiction representative** (term concludes February 2007).

ACTION: Jerry Self made the motion, seconded by Willie McIntosh, and unanimously adopted by the Board, to **appoint Max Hopper to serve a two-year term as a municipal jurisdiction representative** (term concludes February 2007).

ACTION: Jerry Self made the motion, seconded by Willie McIntosh, and unanimously adopted by the Board, to **appoint Randy Cook to serve a two-year term as a county jurisdiction representative** (term concludes February 2007).

ACTION: Willie McIntosh made the motion, seconded by Johnny Hutchins, and unanimously adopted by the Board, to **appoint Beth Lattimore to serve a two-year term as a county jurisdiction representative** (term concludes February 2007).

PLANNING DEPARTMENT: CODE TEXT AMENDMENT - DEVELOPMENT ORDINANCE (CASE 05-01) **(SECTION 12-21; SECTION 12-134; AIRPORT OVERLAY DISTRICT)**

Bill McCarter stated, "The City of Shelby recently adopted a height ordinance for the Shelby Airport and this is to control the height of objects in and around the vicinity of the airport and also in the approaches to the runway." He said this amendment would adopt the standards that apply outside the extraterritorial jurisdiction of Shelby and in the county's zoning jurisdiction as an "overlay district in addition to the underlying zoning."

Chairman Hawkins opened the public hearing at 6:45 p.m. (Public notice of this hearing was conducted in accordance with NCGS 153A-343, with legal advertisements published in The Star on January 21 and January 28, 2005.)

Richard Fletcher advised that as a local pilot he is a frequent user of the airport and a member of the Aircraft Owners and Pilots Association (AOPA). He encouraged Commissioners to adopt the amendments, describing the airport as a "valuable part of our infrastructure."

Paul Hounshell, Airport Manager, also spoke in support of the amendments, stating that an "aggressive plan for marketing" the airport is underway.

Chairman Hawkins closed the public hearing at 6:50 p.m.

ACTION: Willie McIntosh made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to ***approve the amendments*** (copy found on Pages _____ of Minute Book 28).
ISOTHERMAL PLANNING AND DEVELOPMENT: COMMUNITY DEVELOPMENT BLOCK GRANT - BROAD RIVER WATER LINE EXTENSION

Teresa Spires, Economic Development Coordinator, Isothermal Planning, advised this is the “close out of paperwork” on Grant Number 02-C-1041 from the Community Development Block Grant (CDBG) under the Urgent Needs Category. Specifically, the County is closing a \$600,000 Urgent Needs Grant, which involved extending water lines approximately 11.5 miles from the City of Shelby’s water treatment plant on Grover Street to the Broad River below Boiling Springs. The City of Shelby was the lead government in this effort and also received a \$600,000 Urgent Needs CDBG grant. The total project cost was \$6 million, with approximately \$2.8 million (47%) coming from state and federal sources and \$3.2 million from local sources.

Ms. Spires noted the project is now complete and can be used “at a few days notice” since City officials will rent pumps when needed.

Chairman Hawkins declared the public hearing open at 6:52 p.m. (*Public notice of this hearing was accomplished by a block ad published in The Star on January 19, 2005.*) Hearing no comments, he closed the public hearing at 6:53 p.m.

Ms. Spires advised no further formal action is needed to finalize the paperwork on this project.
PLANNING DEPARTMENT: ZONING MAP AMENDMENT - CHARLES D. WILLIAMS (Case 05-02) (Belton Drive)

Mr. McCarter reviewed that Mr. Williams has presented a petition to rezone approximately 12.4 acres along Belton Drive from Light Industrial (LI) to Residential (R). These three tracts are located just north of I-85 in the Industrial Corridor. He advised the existing land use is residential and surrounding land uses are predominately rural residential. Future land use is classified as expanding commercial/industrial and there is no public water or sewer. Belton Road is classified as a “Minor Collector” by NCDOT with no planned improvements.

He reviewed the recommendation of Chuck Nance, Planning Consultant, to deny the petition stating, “Generally, I would have no problem with the extension of one zoning district into another, but in this case, according to the map there are four pieces of property that would not be involved in the rezoning that would remain in two LI zones. It is my opinion that by approving this request, the county would be creating areas that could be considered spot zoning. It would be better if all of the property were to be rezoned, not creating any pockets that could be potential problems in the future.”

Mr. McCarter also reviewed the recommendation to approve the rezoning from the Planning Board stating, “The Board indicated that homes were located on several of these lots, and agreed with IPDC that the entire area should be rezoned. Since the petitioner was not able to obtain the signatures of the other lot owners, the Board recommended rezoning only the larger tract owned by Williams.” He said, “This area is indicated as expanding commercial/industrial on the 2005+ Projected Land Use Plan and Belton Drive serves a rural residential neighborhood. I-85 is located at the rear of this property. Several homes are located along Belton Drive, all of which are non-conforming in a Light Industrial zoning district. Belton Drive is a private unpaved residential street. No public water is available.”

Chairman Hawkins opened the public hearing at 7:10 p.m. (*Public notice of this hearing was accomplished in accordance with the mandates of NCGS 153A-343, with legal advertisement published in The Star on January 19 and January 26, 2005.*)

Charles Williams, the petitioner, advised he was unaware the property had been rezoned until he applied for a septic tank permit for a mobile home for his “80-year old mother-in-law.” He discussed the surrounding property uses, stating “I’m in a predicament” and requested Commissioners rezone the property as requested.

Hearing no other comments, Chairman Hawkins closed the public hearing at 7:15 p.m.

Mr. McCarter clarified this area was zoned as a part of the I-85 corridor zoning in 1994. There was discussion regarding how rezoning this parcel would affect two other nearby properties.

ACTION: Willie McIntosh made the motion, seconded by Mary Accor, and unanimously adopted by the Board, to ***approve the rezoning for the Williams property, as well as “the other two parcels in the strip”*** (copy of the rezoning Ordinance is found on Page _____ of Minute Book 28).

ACTION: Willie McIntosh made the motion, seconded by Mary Accor, and unanimously adopted by the Board, to ***instruct Mr. McCarter to “look into other property zoning.”***

PLANNING DEPARTMENT: ZONING MAP AMENDMENT - LISA T. PATTERSON (731 Stony Point Road) (Case 05-03)

Mr. McCarter reviewed that Lisa T. Patterson has presented a petition to rezone approximately 0.46 acres located at 731 Stony Point Road from Residential Manufactured Homes & Parks (RM) to General Business (GB). This tract adjoins an existing General Business zoning district at the intersection of Stony Point and Oak Grove.

He stated the structure was previously used as a rental home, and most recently listed as “Cleveland Lodge.” The owner opened a retail store “Soap Scents” without a permit and was cited with a Notice of Violation on December 16, 2004. He advised the lot is 0.46 acres including the right-of-way, resulting in a usable lot area of much less than the minimum lot size. Future land use is listed as expanding commercial/industrial and public water is supplied by Cleveland County Sanitary District. Stony Point Road is classified as a Major Collector by NCDOT.

Mr. McCarter reviewed the recommendations of Chuck Nance, Planning Consultant, as “It is my opinion that this request to extend the GB zoning district into the RM district, at an area that is generally crossroads commercial in nature should be approved.”

He also reviewed the following recommendation of the Planning Board, “The Board recommended approval of this rezoning based on the technical merits of the rezoning request. Citizen comments received during the public hearing should be weighed in your decision of whether to expand this commercial zoning district further into a residential area. This area is indicated as Expanding Commercial/Industrial on the 2005+ Projected Land Use Plan. The current GB district to the north contains a variety of businesses, i.e., a convenience store, a rental store, a car wash, laundry, a hair salon. Residential uses surround the subject property on the other three sides. Across the street is a dwelling, down the street are several dwellings, and in the rear is a mobile home park. The existing building is considered a non-conforming structure because it encroaches on the adjoining property. The lot is non-conforming because it is less than 0.5 acres. Stony Point Road is classified as a minor thoroughfare with a capacity of 6,000 ADT. Public water is provided by Cleveland County Sanitary District.”

Chairman Hawkins opened the public hearing at 7:44 p.m. (*Public notice of this hearing was conducted in accordance with NCGS 153A-343, with legal advertisements published in The Star on January 21 and 28, 2005.*)

Brian Gold, attorney for the plaintiff, explained the boundary line dispute is an ongoing issue with the adjoining property owner and reviewed the reason Ms. Patterson wishes to have the property rezoned.

Jeff Patterson, co-petitioner, also reviewed the reason for the rezoning petition and the history of the property.

Paul Ledford, who stated he “grew up in the area,” spoke on behalf of his church stating “they have a lot of concerns” regarding the rezoning stating “it’s one thing to say we’re going to put a business there now, but in the future if they leave, then there is no control over what goes in there.” He reviewed the Sheriff’s Office list of how often reports had been made on problems at that site prior to this business being opened there.

Hearing no further comments, Chairman Hawkins closed the public hearing at 7:47 p.m.

There was discussion regarding the technical aspects of this rezoning petition and Commissioners Accor and Hutchins expressed their concern regarding the lack of parking on this small lot at such a busy intersection.

ACTION: Willie McIntosh made a motion, which was seconded by Jerry Self, to approve the rezoning petition. The motion failed by a majority vote. Votes were recorded as Self and McIntosh voting yes; and, Hawkins, Accor and Hutchins voting no.

PLANNING DEPARTMENT: ZONING MAP AMENDMENT - DAVID MORROW (2328 SOUTH LAFAYETTE STREET) (CASE 05-04)

Mr. McCarter reviewed that Mr. Morrow has submitted a petition to rezone approximately 24 acres located at 2328 South LaFayette Street from Residential Corridor Protection (RCP) to General Business (GB). He reviewed the background information on this case, stating "These properties contain a variety of businesses: an auto salvage yard, used car sales, snack foods warehouse, and the petitioner's home. The auto junk yard is a non-conforming use and is only permitted in an industrial zoning district. The future land use is described as expanding residential and public water is provided by Cleveland County Sanitary District. South LaFayette Street (NC 18) is classified as a major collector by NCDOT."

He also reviewed the recommendation to deny the petition as made by Chuck Nance, the Planning Consultant, quoting "This proposal would be considered spot zoning. The Corridor Protection (CP) district already allows some commercial uses, and with the surrounding land use being primarily residential, I believe that this request would be arbitrary and capricious. If there is a specific reason or use that this proposal is being requested for, and it would fit into the scope of the CP district, then I would suggest amending the list of permitted uses to reflect the specific use. Otherwise, I would leave it like it is."

Mr. McCarter reviewed the Planning Board recommendation to approve as, "The Board discussed the variety of commercial uses permitted in the CP district. They noted that rezoning to Light Industrial would make all business uses, including the junk yard conforming. After further discussion, the Board voted 8-1 to approve the petitioner's request, noting that a majority of the existing uses were commercial in nature rather than industrial. This area is indicated as expanding commercial/industrial on the 2005+ Projected Land Use Plan and existing residential subdivisions surround the area to be rezoned. Existing residential and commercial uses are permitted in the CP district. The only non-conforming use is the junk yard, which will also be non-conforming in GB. South LaFayette Street (NC-18) is classified as a major thoroughfare by NCDOT. Public water is provided b CCSD.

Chairman Hawkins opened the public hearing at 7:55 p.m. (*Public notice of this hearing was conducted in accordance with NCGS 153A-343, with legal advertisements published in The Star on January 21 and 28, 2005.*)

David Morrow, petitioner, said this property had been used for commercial purposes since 1962, when his father started a business there and reviewed the history of the various businesses that had been located on this property.

Hearing no other comments, Chairman Hawkins closed the public hearing at 8:01 p.m.

ACTION: Willie McIntosh made the motion, seconded by Mary Accor, and unanimously adopted by the Board, to **approve the rezoning petition** (copy of rezoning ordinance found on Pages _____ of *Minute Book 28*).

PLANNING DEPARTMENT: ZONING MAP AMENDMENT - DAVID MORROW (2323 & 2426 South LaFayette Street) (Case 05-05)

Bill McCarter advised Mr. Morrow has submitted a petition to rezone approximately two acres located at 2423 and 2426 South LaFayette Street from Residential Corridor Protection (RCP) to General Business (GB). He reviewed the following background information, "These properties contain a garage, retail store, and a dwelling converted to retail space. There are no non-conforming uses and the future land use is described as expanding residential."

He reviewed the Planning Consultant, Chuck Nance's recommendation to deny the petition, quoting "This proposal would be considered spot zoning. The Corridor Protection (CP) district already allows some commercial uses, and with the surrounding land uses being primarily residential, I believe that this request would be arbitrary and capricious. If there is a specific reason or use that this proposal is being requested for, and it would fit into the scope of the CP district, then I would suggest amending the list of permitted uses to reflect the specific use. Otherwise, I would leave it like it is."

He reviewed the recommendations of the Planning Board, who voted to deny the petition, as "The Board discussed the variety of commercial uses permitted in the CP district. The Board was concerned that the rezoning of two small lots, in comparison to the large residential area, would constitute spot zoning. This area is indicated as expanding residential on the 2005+ Projected Land Use Plan and existing residential subdivisions surround the area to be rezoned. Non-conforming uses were listed as none."

Chairman Hawkins opened the public hearing at 8:08 p.m. (*Public notice of this hearing was conducted in accordance with NCGS 153A-343, with legal advertisements published in The Star on January 21 and 28, 2005.*)

David Morrow reviewed the history of the properties, stating it has always been used for business; it is "less than 700 feet from other property just rezoned"; that there are several more business properties located nearby; the property has been in his family since 1957 and although he does not agree with zoning, he is asking the property be "made what it is - General Business."

Eddie Weeks, who also signed the petition, said he was told the property was not zoned when he purchased it. He said the building was originally built to be used as a service station and was later used as a fish camp. He purchased the property to open a body shop and a beauty shop and he lives on an adjacent property. He said he also operates "Earl's Music" in the building which provides "free bluegrass music to the community."

Hearing no further comments, Chairman Hawkins closed the hearing at 8:20 p.m. Commissioners discussed the merits of the General Business classification and those of Neighborhood Business as they apply to this case.

ACTION: Mary Accor made the motion, seconded by Jerry Self, and ***adopted by a majority vote of the Board to deny the petition.*** Votes were recorded as Accor, Self, Hawkins and Hutchins voting yes; and, McIntosh voting no.

PLANNING DEPARTMENT: CODE TEXT AMENDMENT - HISTORIC PRESERVATION COMMISSION ORDINANCE (Section 12-401)

Mr. McCarter stated, "At your last meeting, we discussed adding a line to the ordinance for the Historic Preservation Commission, and that was to clarify the jurisdiction, so we added a sentence under Section 12-401 - Authority to say, "This Chapter shall be in effect in all unincorporated areas of Cleveland County which are not under the planning jurisdiction of any municipality, unless adopted by reference." He said, "That is why we're going to each municipality and getting them to adopt the Ordinance by reference through a resolution, then that will extend our authority inside the town limits for the Commission."

Chairman Hawkins opened the public hearing at 8:35 p.m. (*Public notice of this hearing was accomplished by legal advertisement published in The Star on January 21 and January 28, 2005.*)

Robert Williams said he was in favor of the ordinance amendment, but then turned his comments to the previous case dealing with the rezoning petition of David Morrow. Chairman Hawkins instructed Mr. Williams that only comments relevant to this case would be heard.

Hearing no further comments, Chairman Hawkins closed the public hearing at 8:37 p.m.

ACTION: Willie McIntosh made the motion, seconded by Mary Accor, and unanimously adopted by the Board, to ***approve the amendments*** (copy found on Pages _____ of Minute Book 28).
HUMAN RESOURCES: CODE TEXT AMENDMENT - PERSONNEL ORDINANCE (Article I. Section 2; Article III. Section 9 and 12; Article VI. Section 3 and 12; Article VII. Section 9.2; Article IX. Section 5; Appendix I and VI)

Eddie Bailes, Human Resources Director, reviewed the proposed amendments (copy found on Pages _____ of Minute Book 28). There was discussion regarding Appendix I, Voluntary Shared Leave Program, and Commissioner McIntosh questioned why all employees could not share sick leave with another employee instead of limiting it to immediate family members. Commissioners requested Mr. Bailes bring back to them at some later date recommendations regarding additional language that would amend the Ordinance to accomplish this.

Chairman Hawkins opened the public hearing at 8:46 p.m. (*Public notice of this hearing was accomplished by legal advertisement published in The Star on January 21 and January 28, 2005.*) Hearing no comments, he closed the public hearing at 8:47 p.m.

ACTION: Mary Accor made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to ***approve the amendments as found on Pages _____ of Minute Book 28.***

MISCELLANEOUS BUSINESS

SOCIAL SERVICES

Mary Accor, who serves as Commissioner representative to the Social Services Board, shared a copy of the Annual Report from Director John Wasson (copy found on Page _____ of Minute Book 28). She also advised that Representative Tim Moore has "signed on to help look at ways to rescind the cost of Medicaid." She also commended the Social Services staff for their dedicated service to citizens.

PLANNING DEPARTMENT: PROPOSED AMENDMENTS TO THE COUNTY CODE - DEVELOPMENT ORDINANCE - SECTION 12-21 AND SECTION 12-124 (REQUEST TO SCHEDULE PUBLIC HEARING FOR MARCH 1, 2005)

ACTION: Mary Accor made the motion, seconded by Johnny Hutchins, and unanimously adopted by the Board, to ***schedule the public hearing as requested.***

MISCELLANEOUS

Commissioner Hutchins advised he has been visiting schools to get acquainted and with the school system staff and programs. Commissioner Accor reported several student organizations will be recognized at the next regular meeting of the Board. Chairman Hawkins advised Commissioners he will be providing them with a list of upcoming Chamber small business recognition gatherings and ribbon cuttings.

ADJOURN

There being no further business to come before the Board at this time (9:00 p.m.), Commissioner Accor made the motion, seconded by Commissioner Hutchins, and unanimously adopted by the Board, to adjourn the meeting. The next regular meeting of the Board is scheduled for ***Tuesday, February 15, 2005, at 6:00 p.m.***

Ronald J. Hawkins, Chairman
CLEVELAND COUNTY BOARD OF COMMISSIONERS

Wanda Crotts, CMC, Clerk
CLEVELAND COUNTY BOARD OF COMMISSIONERS