

CLEVELAND COUNTY BOARD OF COMMISSIONERS

March 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
Sherry Evans, County Manager's Office
Bill McCarter, Planning Director
Eddie Bailes, Human Resources Director
Chris Crepps, Finance Director
Chris Green, Tax Assessor
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. David Dear provided the invocation for the meeting.

AGENDA ADOPTION

ACTION: Willie McIntosh made the motion, seconded by Jerry Self, and adopted by a unanimous vote of the Board, to ***adopt the agenda as presented by the County Clerk.***

CONSENT AGENDA

APPROVAL OF MINUTES

There being no corrections, additions, or deletions to the minutes of ***February 1, 2005***, motion was made by Mary Accor, seconded by Johnny Hutchins, and unanimously adopted by the Board, to ***approve the minutes as written.***

SHERIFF'S OFFICE: BUDGET AMENDMENT (BNA #0)

ACTION: Jerry Self made the motion, seconded by Willie McIntosh, 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>
010.441.4.810.00	Sheriff/Contributions-Donations	\$121.	
010.441.5.790.00	Sheriff/Donations-Contributions	\$121.	

Explanation of Revisions: Budgeting \$121 received from Ann McDaniel (615 Country Club Road, Shelby) as a donation to be used toward the purchase of any educational materials or advertising needed by the department.

CO-OPERATIVE EXTENSION: BUDGET AMENDMENT (BNA #41)

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

<u>Account Number</u>	<u>Project Code/Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
010.495.4.410.00N	OCGAS-5495/Co-op Extension/Local & Other grants	\$500.	

010.495.5.700.00N OCGAS-5495/Co-op Extension/Grant 500.
Explanation of Revisions: To accept funds from the Corn Growers Association. Funds will be used to purchase seed, sprinklers, fertilizers, chemicals, etc. in support of corn demonstration behind the County Office Building. Grant requires no county match.

CRIMINAL JUSTICE PARTNERSHIP PROGRAM: BUDGET AMENDMENT (BNA #42)

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

<u>Account Number</u>	<u>Project Code/Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
010.439.4.350.00	0CJPP-P439Criminal Justice/State Government Grants	\$ 1,500.	
010.439.5.420.00	0CJPP-P439/Criminal Justice/Contracted Services	1,500.	

Explanation of Revisions: To accept reallocated funds from the NC Department of Correction Division of Community Corrections. Funds are to be used to transport offenders to and from treatment at the Day Reporting Center.

HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #43)

ACTION: Jerry Self made the motion, seconded by Willie McIntosh, 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>
013.660.4.980.65	Employee Health Clinic/Transfer from Health Plan	\$5,178.	
013.660.5.121.00	Employee Health Clinic/Salaries-Reg	\$3,956.	
013.660.5.131.00	Employee Health Clinic/FICA	\$246.	
013.660.5.133.00	Employee Health Clinic/Hospitalization Insurance	\$879.	
013.660.5.134.00	Employee Health Clinic/Dental Insurance	\$39.	
013.660.5.136.00	Employee Health Clinic/Medicare Insurance	\$58.	
065.981.4.991.00	Funds Transfer/Fund Balance Appropriation	\$5,178.	
065.981.5.890.00	Funds Transfer/Interfund Transfers	\$5,178.	
065.3.996.00	Dental Fund/BCBS Health/UnRes-Undesignated Fd Bal	\$5,178.	
065.3.991.67	Dental Fund/BCBS-Health/UnRes-Designated FB-660	\$5,178.	

Explanation of Revisions: Requesting part-time Processing Assistant III be increased from half-time to full-time effective March 1, 2005. (When the clinic is held full-time at the Shelby site, we will not have clerical assistance in the afternoon unless this position is changed.)

SOCIAL SERVICES: BUDGET AMENDMENT (BNA #50)

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

<u>Account Number</u>	<u>Project Code/Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
011.519.4.310.00	Public Assistance/Federal Government Grants	\$101,831.	
011.519.5.512.00	Public Assistance/Crisis	\$101,831.	

Explanation of Revisions: To accept additional Crisis Intervention funds for FY 04/05. The current state approved allocation was more than State estimates for crisis intervention funding for FY 04/05.

SOCIAL SERVICES: BUDGET AMENDMENT (BNA #45)

ACTION: Jerry Self made the motion, seconded by Willie McIntosh, 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>
011.504.4.350.00	Title XX/State Government Grants	\$36,000.	
010.504.5.899.00	Title XX/Reserve Funds	\$36,000.	

Explanation of Revisions: To accept additional Special Children Adoption Funds to be held in reserve account to be carried forward for FY 05/06 contract with Children's Home of Cleveland County (P/C 93659-2200).

SOCIAL SERVICES: BUDGET AMENDMENT (BNA #46)

ACTION: Jerry Self made the motion, seconded by Willie McIntosh, 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>
011.507.4.310.00	Outside Poor/Federal Government Grants	\$481,904.	
011.507.4.350.01	Outside Poor/Smart Start	\$5,760.	
011.507.5.420.00	Outside Poor/Contract Services	\$487,664.	

Explanation of Revisions: Necessary to adjust county budget to match actual state allocation for child day care funds. Approved allocation was more than State estimates for CCDF and Smart Start day care funding for FY 04/05. (P/C 93996-2200)

HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #47)

ACTION: Jerry Self made the motion, seconded by Willie McIntosh, 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>
012.539.4.350.00	Family Planning/State Government Grants	\$5,086.	
012.539.5.230.00	Family Planning/Medicine & Supplies	\$1,586.	
012.539.5.910.00	Family Planning/CO Equipment	\$3,500.	

Explanation of Revisions: To budget one time performance bonus family planning funds for the purchase of a paper shredder and medical supplies (P/C 93217-6014).

HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #48)

ACTION: Jerry Self made the motion, seconded by Willie McIntosh, 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>
012.546.4.660.37	Carolina Access/Medicaid-CA	\$ 5,351.	
012.546.5.121.00	Carolina Access/Salaries-Reg	4,686.	
012.546.5.131.00	Carolina Access/FICA	291.	
012.546.5.133.00	Carolina Access/Hospitalization Ins.	293.	
012.546.5.134.00	Carolina Access/Dental Insurance	13.	
012.546.5.136.00	Carolina Access/Medicare Insurance	68.	

Explanation of Revisions: Increase PHN-I position 012.546.1266 from 50% to 100% effective March 15, 2005. Continue revenue should be sufficient to sustain 100% position in FY 05/06.

PLANNING DEPARTMENT: ZONING MAP AMENDMENT - BILLIE W. MELTON (Request to schedule public hearing) (Case #05-09)

ACTION: Jerry Self made the motion, seconded by Willie McIntosh, and unanimously adopted by the Board, to **approve scheduling a public hearing regarding this petition for April 5, 2005 at 6:00 p.m.**

PLANNING DEPARTMENT: ZONING MAP AMENDMENT - DAVID MORROW (Request to schedule public hearing) (Case #05-10)

ACTION: Jerry Self made the motion, seconded by Willie McIntosh, and unanimously adopted by the Board, to **approve scheduling a public hearing regarding this petition for April 5, 2005 at 6:00 p.m.**

CERTIFICATE OF RECOGNITION: DONALD L. McCLUNEY

Commissioners presented Mr. McCluney with a certificate of recognition honoring him for his induction into the Sport Karate Living Legends Hall of Fame for Lifetime Achievements - 2004.

RESOLUTION: DESIGNATING "EXTENSION LIVING WELL WEEK" IN CLEVELAND COUNTY

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

NUMBER 03-2005

RESOLUTION DESIGNATING MARCH 13 - 19, 2005 AS "EXTENSION LIVING WELL WEEK"

WHEREAS, the health and well-being of the family is crucial to the functioning of the nation and to providing adults and youth with the necessary skills and knowledge to help them achieve the best quality of life possible;

WHEREAS, physically, psychologically, socially, and emotionally strong families provide strength for future generations;

WHEREAS, Extension is a nationwide network through the land grant universities, funded cooperatively through the Department of Agriculture, state governments and county governments;

WHEREAS, in North Carolina, Family and Consumer Sciences, NC Cooperative Extension is part of the nationwide Extension educational system of university educators, researchers, and staff who work through the NC Agricultural Research Service, North Carolina State University and North Carolina A&T State University. Cooperative Extension is funded cooperatively through the County Board of Commissioners, State of North Carolina, and US Department of Agriculture;

WHEREAS, the Family and Consumer Sciences department, NC Cooperative Extension of Cleveland County initiatives in nutrition, healthy lifestyles, food safety, health, finances, and environmental health enable citizens to gain knowledge and skills to lead full and productive lives;

WHEREAS, Family and Consumer Sciences offers educational workshops, seminars, publications and websites to help families and individuals stay active and well;

WHEREAS, the designation of “Extension Living Well Week” is a fitting tribute to the National Extension Association for Family and Consumer Sciences’ professionals and local staff who provide education that is critical to the quality of life of adult, youth and families.

NOW, THEREFORE, BE IT RESOLVED, that the Cleveland County Board of Commissioners hereby designates **March 13 - 19, 2005** as “**Extension Living Well Week**” in Cleveland County encouraging county residents to take advantage of the educational opportunities that Family and Consumer Sciences, NC Cooperative Extension offers in the community. These educators provide practical, research-based education that helps county residents in raising kids, eating right, staying healthy, and living well.

ADOPTED THIS THE 1 DAY OF MARCH 2005.

MEDIATION CENTER OF SOUTHERN PIEDMONT

Jan Mahannah, Executive Director of the Mediation Center, reviewed the space needs of the organization, stating she is now “formally requesting space consideration.” Chairman Hawkins told Ms. Mahannah that the Commission has “given direction to the County Manager regarding this matter” and requested that she contact him.

PLANNING DEPARTMENT: DEVELOPMENT ORDINANCE TEXT AMENDMENTS (Section 12-21 Definitions of Basic Terms; Section 12-124 Table of Permitted Uses) (Case #05-08)

Mr. McCarter reviewed that during the regular meeting of January 26, 2005, Commissioners requested he prepare an amendment to the Table of Permitted Uses requiring an Amusement Park or Arcade to obtain a Conditional Use Permit. New businesses or a change in use of an existing business will require that the Board of Adjustment issue a Conditional Use Permit. He reviewed the recommended wording, a copy of which is found on Page _____ of Minute Book 28. He also advised that both the Planning Consultant and the Planning Board support the proposed amendments.

Chairman Hawkins opened the public hearing at 6:32 p.m. (*Public notice of this hearing was accomplished in accordance with NCGS 153A-343, with legal ads published in The Star on February 16 and 23, 2005.*)

Rob Deaton, attorney, expressed his opposition to the proposed amendment stating he felt the Sheriff “is asking you to regulate something that is his job” and cautioned Commissioners that “you are treating video gaming people unequal under the constitution” and that Commissioners are “setting yourselves up for potential costly legal expenses.” He said, “I ask you to consider your continued attempt to regulate something that is already strongly regulated.”

David Morrow also registered his opposition to the proposed amendment, stating Commissioners are “trying to put small businesses out of business”; that the recent State of the Union Address delivered by the President discouraged local governments from “enacting rules that would hinder small business”; that Commissioners are “trying to do the Sheriff’s job by broadening the ordinance”; and, “leave small business alone, if they break the law address that.”

Hearing no further comments, Chairman Hawkins declared the public hearing closed at 6:50 p.m. There was lengthy discussion regarding various aspect of the proposed amendment, such as the recommendation developed by the taskforce (*reference Pages _____ of Minute Book _____*); procedure for application; crime related issues; how such an ordinance may infringe on individual rights; time spent on this issue as opposed to other issues crime issues (*drugs, drive by shooting, unsafe neighborhoods*); the belief that criminals go where people are most vulnerable which is not necessarily video gaming establishments; that the amendment would better clarify regulations and a conditional use then citizens would have opportunity to provide input into such things as hours of operation since the Board of Adjustment can regulate where Commissioners cannot and can look at each application on a case-by-case basis.

ACTION: Mary Accor made the motion, seconded by Johnny Hutchins, and unanimously adopted by the Board, to ***approve the proposed amendments as presented*** (copy found on Page _____ of Minute Book 28).

**PLANNING DEPARTMENT: ZONING MAP AMENDMENT - CLEVELAND COUNTY
HEALTH DEPARTMENT - FIELDING ROAD (Case #05-07)**

Mr. McCarter advised the Cleveland County Health Department has presented a petition to rezone the remaining portion of a 378-acre tract at the landfill located off Fielding Road from Rural Agricultural (RA) to Heavy Industrial (HI). A portion of this tract, north of Fielding Road, was initially zoned in 1997 as a part of the Rural Agricultural Zoning District.

He advised the existing land use is forest, the surrounding land use is predominately rural residential, and the future land use is projected to be Agricultural/Rural. He said public water is provided by the Cleveland County Sanitary District and the portion of Fielding Road extending through the landfill was recently abandoned and closed.

Mr. McCarter reviewed the recommendation to approve the rezoning petition made by the Planning Consultant, Chuck Nance. Mr. Nance stated, "Based on my review, it looks like cases 05-06 and 05-07 go together. I would think the amount of acreage involved with alleviate any similarities to spot zoning; however, you need to make sure that the future land use map documents this change, and any future changes."

Mr. McCarter also reviewed the recommendation of the Planning Board, who also voted to approve the rezoning petition, stating, "The Planning Board voted unanimously to recommend that a portion of this property, west of the railroad, be rezoned to Heavy Industrial (HI) and the small portion along NC-150 be rezoned to Neighborhood Business (NB). The Board discussed the appropriate zoning classification of the county landfill was HI. Due to the size of the parcel on NC-150 and the adjoining residential uses, the Board recommended NB as the least offensive commercial zoning. This area is indicated as Rural Agriculture on the 2005+ Projected Land Use Plan and the new land use plan indicates future industrial growth north of the railroad along NC-150. Surrounding properties are predominately agricultural, with residential uses along NC-150. These properties are currently vacant, so there are no non-conforming uses. NC-150 is classified as a major thoroughfare and public water is provided by the Cleveland County Sanitary District."

Chairman Hawkins opened the public hearing at 7:07 p.m. (*Public notice of this hearing was accomplished in accordance with the mandates of NCGS 153A-343 with legal advertisements published in The Star on February 16 and 23, 2005.*)

Jerry Marlow advised his property is adjacent to the property in question and wants to expand his business which has been located there for twenty-four years, therefore he is in favor of the rezoning.

Vallery McCoy, who lives on Cherryville Road, advised she has lived near the property for eighteen years. She said she learned only tonight that the Planning Board had recommended changing from Heavy Industrial to Neighborhood Business. She expressed "deep concerns about the eleven acres" and requested the property remain as it is currently zoned. She cited concerns over increased traffic, possible devaluation of properties, that rezoning would break the continuity of adjacent properties, and since the "railroad separates these eleven acres from the larger landfill property, it seems unlikely it can be used for a landfill."

Bill Stucky told Commissioners he moved to this area approximately ten years ago in part due to the restricted residential zoning of the area. He said if rezoned it would "dramatically change the neighborhood" and urged Commissioners to keep the residential zoning.

Bill Hooker reiterated the comments of his neighbors, adding he would "support the decision of the Commissioner."

Harold Dellinger, New Prospect Church Road, said he did not receive a notice regarding the public hearing and requested Commissioner delay action on this matter until everyone can be notified.

Tom McCoy noted he did not receive a notice either.

Hearing no further comments, Chairman Hawkins closed the public hearing at 7:20 p.m.

There was lengthy discussion regarding the fact that many of the residents involved did not receive the notification of the public hearing mailed by the Planning Department, stating they learned of the public hearing from the signs posted on the property and the ads published in the newspaper. Discussion centered on alternative ways of notification and the laws affecting the continuation of this case since the public hearing had already been closed.

ACTION: *Willie McIntosh made the motion, which died from lack of a second, to "re-do the entire process and reschedule the public hearing."*

After further discussion, the motion was made again as follows:

ACTION: Willie McIntosh made the motion, seconded by Johnny Hutchins, and ***adopted by a majority vote of the Board, to reschedule the entire process and schedule another public hearing on April 5, 2005 at 6:00 p.m.*** (Votes were recorded as Accor, McIntosh and Hutchins voting yes; and, Hawkins and Self voting no.)

PLANNING DEPARTMENT: ZONING MAP AMENDMENT - JERRY L. MARLOW - PINEDALE ROAD (Case #05-06)

Mr. McCarter reviewed that Jerry Marlow has presented a petition to requesting that approximately 100 acres (seven tracts located just north of NC-150) along Pinedale Road be rezoned from Rural Agricultural (RA) to Heavy Industrial (HI). He advised the existing land use is Cleveland Scrap Metal and the surrounding land use is predominately rural residential, with a manufactured home park across the street. Future land use is classified as agricultural/rural and Cleveland County Sanitary District provides public water to the property. Pinedale Road is classified as a "local street" by the NCDOT with no planned improvements.

He also reviewed the recommendation of the Planning Consultant Chuck Nance to approve the petition as follows: "Based on my review, it looks like cases 05-06 and 05-07 go together. I would think the amount of acreage involved would alleviate any similarities to spot zoning, however, you need to be sure that the future land use map documents this change, and any future changes."

He reviewed the recommendations of the Planning Board, who also recommended approval: "The Planning Board voted unanimously to recommend that a portion of this property, west of Pinedale Road, be rezoned to Heavy Industrial. The Board discussed the impact of heavy industrial uses on the adjoining residential properties east side of Pinedale Road and protecting the view from NC-150. Cleveland Scrap Metal is located on several tracts west of Pinedale, and rezoning to HI would eliminate this non-conforming use. The Board recommended leaving the RA district on the east side of Pinedale to provide a buffer to adjoining residential properties, and protect the view from NC-150. Mr. Marlow's house is also located on the east side of Pinedale and would be non-conforming under HI. This area is indicated as Rural Agriculture on the 2005+ Projected Land Use Plan. The new land use plan indicates future industrial growth north of the railroad along NC-150. The area is predominately agricultural, with a manufactured home park east of Pinedale. Cleveland Scrap Metal occupies three of the tracts and is a non-conforming use in RA. The site is within close proximity to NC-150, which is a major thoroughfare. Public water is provided by CCSD."

Chairman Hawkins opened the public hearing at 7:38 p.m. (Notice of this public hearing was accomplished in accordance with NCGS 153A-343, with a legal advertisement published in The Star on February 16 and 23, 2005.)

Jerry Marlow, petitioner, advised his concern was if he does not his property zoned to be consistent with surrounding properties, then he would be "hung out to dry."

There was discussion regarding the recommendations of the Planning Board and Mr. Marlow stated he would "be okay" with those recommendations.

Hearing no further comments, Chairman Hawkins closed the public hearing at 7:41 p.m.

ACTION: Mary Accor made the motion, seconded by Johnny Hutchins, and unanimously adopted by the Board, to ***approve the rezoning request (copy of the rezoning ordinance found on Page _____ of Minute Book 28).***

HUMAN RESOURCES DEPARTMENT: PERSONNEL ORDINANCE TEXT AMENDMENT (Appendix I - Voluntary Shared Leave Program)

Eddie Bailes, Human Resources Director, stated, "During your February 1, 2004 meeting it was suggested that the county's shared leave policy be revised to provide the ability for employees to voluntarily donate vacation or sick leave to another employee placed on leave without pay due to a prolonged medical condition."

Mr. Bailes reported the results of his research of shared leave policies of several other entities and advised “our current policy is modeled after the State’s policy.” He reviewed the county’s current requirements for participation as follows:

- * The employee applying for shared leave must be a permanent employee with at least a minimum satisfactory rating on his/her performance evaluation.
- * The recipient’s leave balance must be at or near zero.
- * Shared leave does not apply to short term or sporadic illnesses. The employee’s absence must be for the duration of 20-days or more before being eligible for shared leave.
- * The maximum amount of leave a recipient may receive shall not exceed 1040 hours.
- * There are other requirements listed in the shared leave policy.

Chairman Hawkins opened the public hearing at 7:44 p.m. (*Public notice of this hearing was accomplished by legal advertisement published in The Star on February 16 and 23, 2005.*) Hearing no comments, Chairman Hawkins declared the public hearing closed at 7:45 p.m.

ACTION: Willie McIntosh made the motion, seconded by Johnny Hutchins, and unanimously adopted by the Board, to ***approve the amendments to the Personnel Ordinance as recommended*** (copy found on Pages _____ of Minute Book 28).

MISCELLANEOUS BUSINESS

BOARD OF ADJUSTMENT

There was discussion regarding recent appeals to the Board of Adjustment concerning video gaming machines, and the need for additional guidance and training for the board. Mr. Yelton advised against giving specific “guidance” to the board concerning an evidentiary hearing, as this board has quasi-judicial responsibilities and their decisions must be based on independent evidence, testimony and finding of fact given at the hearing. Mr. Yelton stated he would provide any information the Board needed whenever they had questions regarding a specific case.

CASAR TOWN MEETING

Vice-Chairman Self reported that he had recently attended the Casar Town Council meeting, where Scott Darnell with the Chamber explained the 20/20 program.

Chairman Hawkins reviewed upcoming Chamber events.

ADJOURN

There being no further business to come before the Board at this time, Johnny Hutchins made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to adjourn the meeting (*at 7:50 p.m.*). The next regular meeting of the Commission is scheduled for ***Tuesday, March 15, 2005 at 6:00 p.m.*** in this Commission Chamber.

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

Wanda Crotts, CMC, County Clerk