

CLEVELAND COUNTY BOARD OF COMMISSIONERS

October 17, 2006

The Cleveland County Board of Commissioners met in a regular session on this date, at the hour of 6:00 p.m., in the Boiling Springs Town Council Chamber, Boiling Springs Town Hall.

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, County Clerk
Eddie Bailes, Assistant County Manager
Bill McCarter, Planning Director
Chris Green, Tax Administrator
Greg Traywick, Cooperative Extension Director
Janet Berry, Chamber Representative
Lindsey Allen, *Cleveland Headline News*
Pete DeLea, *The Star*
Other individual names on file in the Clerk's Office

CALL TO ORDER

Chairman Ronald J. Hawkins called the meeting to order and led the audience in the "Pledge of Allegiance" to the flag of the United States of America. Eddie Bailes provided the invocation for the meeting.

AGENDA ADOPTION

ACTION: Mary Accor made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to *adopt the agenda as presented by the County Clerk.*

CONSENT AGENDA

APPROVAL OF MINUTES

Vice-Chairman Self noted that he felt the "restrictions of the conditional use" for the Chad Watts case should be included as a part of the ordinance, in addition to the official Minutes for October 3, 2006. There being no other corrections, additions or deletions to the minutes of *September 19, 2006*, and *October 3, 2006*, motion was made by Jerry Self, seconded by Mary Accor, and unanimously adopted by the Board, to *approve the minutes as written, with the Watts ordinance being rewritten and re-recorded with the Register of Deeds, to include the restrictions of the Conditional Use Permit.*

ORDINANCE AMENDING THE CLEVELAND COUNTY ZONING MAP
2617 Royster Road – 13.3 Acres
Residential (R) to Rural Agricultural Conditional Use (RACU)

WHEREAS, Article 18 of Chapter 153A of the North Carolina General Statutes provides for the planning and regulation of development within the territorial jurisdiction of the county; and

WHEREAS, the applicant Chad Watts, has proposed to operate a business that will re-manufacture motorcycle engines under the following conditions:

1. Building size (60 feet x 61 feet)
2. Paved parking lot with one handicapped space
3. 5 parking spaces
4. Gravel driveway
5. Detached Sign (4 feet x 8 feet)
6. Retail sales limited to 9:00 am until 6:00 pm

WHEREAS, the Cleveland County Planning Board recommended to approve the rezoning of this parcel on September 26, 2006, stating that the proposed use was reasonable for this rural area; and

WHEREAS, the 2015+ Future Land Use Plan provides for non-residential uses in rural areas including limited retail, commercial and agricultural-based industrial uses using a Conditional Zoning District; and

WHEREAS, said amendment will promote the health, safety, and welfare of the citizens of Cleveland County and said amendment is beneficial to the orderly growth of Cleveland County.

WHEREAS, notice of the Public Hearing was published in the Shelby Star on August 24, 2006, and August 31, 2006, notices were mailed to adjoining property owners on August 24, 2006 and a sign posted in the area on August 24, 2006; and

WHEREAS, all requirements of the North Carolina General Statutes have been met prior to any action by the Cleveland County Board of Commissioners to amend the Official Zoning Map following a Public Hearing on October 3, 2006; and

NOW THEREFORE BE IT ORDAINED by the Cleveland County Board of Commissioners that the Cleveland County Zoning Map, as described in Section 12-147 of the Code, be amended to rezone parcel 58542, from Residential (R) to Rural Agricultural Conditional Use (RA-CU) as identified on the attached map designated "Case 06-16", being incorporated herein by reference and made part of this ordinance.

BEGINNING at a point in Royster Road, thence following property lines, North 07-54-00 East 311.72 feet, North 85-36-00 West 444.75 feet, thence with the creek North 49-36-00 East 64.50 feet, North 11-47-00 West 321.00 feet, North 42-52-00 East 326.00 feet, North 42-21-00 West 300.00 feet, North 20-20-49 West 146.04 feet, thence with property lines South 51-14-14 West 1356.00 feet, thence with Royster Road South 27-12-00 West 75.14 feet, South 29-16-00 West 100.00 feet, South 35-19-00 West 100.28 feet, South 42-13-00 West 100.00 feet, South 52-31-00 West 100.82 feet, South 62-25-00 West 100.00, South 74-51-00 West 100.59 feet, South 81-10-24 West 61.02 feet, to the point of BEGINNING.

This Ordinance shall become effective upon adoption and approval.

Adopted this 3th day of October, 2006 at 6:00 p.m.

SOCIAL SERVICES: BUDGET AMENDMENTS (BNA #017)

ACTION: Jerry Self made the motion, seconded by Mary Accor, and unanimously

adopted by the Board, *to approve the following budget amendments:*

<u>Account Number/Project Code</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
011.519.4.310.00/10550-6510	Public Assistance/Federal Government Grants	\$22,000.	
011.519.5.500.01/10550-6510	Public Assistance/Miscellaneous Grants		22,000.

Explanation of Revisions: Budget amendment necessary to accept sponsorship of the NC Department of Agriculture Commodities Distribution on behalf of the Shelby Lions Club.

TAX COLLECTOR'S MONTHLY REPORT

The Tax Collector provided Commissioners with a detailed written report regarding taxes collected during **September 2006** (copy found on Page _____ of Minute Book 29).

TAX ABATEMENTS AND SUPPLEMENTS

The Tax Assessor provided Commissioners with a detailed written report regarding tax abatements and supplements during *September 2006*. The monthly grand total of tax abatements was listed as (\$124,911.83); and, the monthly grand total for tax supplements was listed as \$2,064,148.85.

SOCIAL SERVICES: WORK FIRST PLAN FOR 2007-2009

ACTION: Jerry Self made the motion, seconded by Mary Accor, and unanimously adopted by the Board, to *adopt the Cleveland County Department of Social Services' 2007-2009 biennial plan for the Work First program (copy found on Pages _____ of Minute Book 29)*.

ECONOMIC DEVELOPMENT: INCENTIVES FOR PROJECT LOMBARDI (Schedule public hearing for November 7, 2006)

ACTION: Jerry Self made the motion, seconded by Mary Accor, and unanimously adopted by the Board, *to approve scheduling the public hearing as requested.*

HISTORIC PRESERVATION COMMISSION: PROPOSED TEXT AMENDMENT (Schedule public hearing for December 5, 2006)

ACTION: Jerry Self made the motion, seconded by Mary Accor, and unanimously adopted by the Board, *to approve scheduling the public hearing as requested.*

PRESENTATION TO COMMISSIONERS FROM EXTENSION & COMMUNITY ASSOCIATION (ECA)

Ann Lancaster, ECA President, accompanied by representatives of the ECA clubs, Greg Traywick, Cooperative Extension Director, Debra Crandall, District Director, and Nancy Abasiokong, Cooperative Extension, thanked Commissioners for their support of extension services and the Association. They presented each Commissioner with a basket filled with homemade items. They also invited Commissioners to attend their annual "achievement program" on October 26th.

KINGS MOUNTAIN: NEW LAKE UPDATE

Rick Murphrey, Kings Mountain Mayor, accompanied by HDR Engineering representatives, read a letter (*copy found on Page _____ of Minute Book 29*) regarding the City's exploration of options to increase its existing water supply. Mayor Murphrey explained these options include increasing the availability of water from the Moss Lake Reservoir, as well as potentially constructing a new reservoir to provide Moss Lake an additional supply for the region. He requested a letter of endorsement for the lake and asked Commissioners to "consider this" as long-range water needs are planned (*a copy of the presentation is found on Pages _____ of Minute Book 29*).

Initial plans are for the new lake to be a "supplement to Moss Lake" and the next phase will be to look at the current Moss Lake to refine the 23 million gallons by dredging to increase a safe yield, but stated "more study is needed." There was discussion regarding the probability this will be a residential

lake “but would have more stringent regulations”; that Waco and Cherryville also have jurisdiction in the watershed and will need to approve; will need to “market” in all communities affected since this will be a “regional effort”; the need to encourage legislature to develop “water rights legislation” (*Vice-Chairman Self*); and Commissioners congratulated the Mayor and retired Mayor John Henry Moss and the City Council for their “vision.”

ACTION: Johnny Hutchins made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to *direct the County Manager to draft a letter of support to be considered at the next regular meeting of the Commission* (reference November 7, 2006).

PLANNING DEPARTMENT: ZONING MAP AMENDMENT – STEVEN BOWEN (Case #06-18) (US-74 West)

Bill McCarter, Planning Director, advised that Steven Bowen has presented a petition to rezone approximately 18-acres located along US-74 West (*Dixon Blvd.*) from Residential-Corridor Protection to General Business. This rezoning will eliminate several non-conforming uses in this area: Crash’s Body Shop and Beaverdam Auto Auction. He reported that Setzer Well Boring, who was initially part of the petition, requested his property be withdrawn. He explained that Mr. Setzer supports the petition, but has ceased operation of his business and has no need for future commercial use.

John McCulloch, Planning Board Chairman, advised the Planning Board voted unanimously to recommend approval of this rezoning request. The Board agreed with IPDC that the 2015 Land Use Plan projected this area for commercial use. Properties along US-74 are a mix of residential and commercial uses. Forest Ridge subdivision is to the east, with large agricultural tracts to the south, and residential uses along Webb Road to the west. US-74 is classified as a “major arterial street by NCDOT.”

The report from Chuck Nance, IPDC Planning Consultant, stated, “Based upon the fact that this is a large request with several tracts of land, and the future use plan projects that the future land use will be commercial, it is our opinion that Cleveland County could rezone this property.”

Chairman Hawkins declared the public hearing open (*public notice of this hearing was accomplished in accordance with the mandates of NCGS 153A-343, with legal advertisements published in the Star on October 6 and 13, 2006*).

Steven Bowen, petitioner, advised his business has grown and many of the vehicles he repairs are large, such as ambulances, TACC vans, and Turner Trucking vehicles, which has necessitated larger bay areas be built to accommodate.

Hearing no further comments, Chairman Hawkins closed the public hearing.

ACTION: Mary Accor made the motion, seconded by Willie McIntosh, and unanimously adopted by the Board, to *approve the rezoning petition as requested*.

ORDINANCE AMENDING THE CLEVELAND COUNTY ZONING MAP
Four tracts containing approximately 18 acres along West Dixon Blvd.
Residential – Corridor Protection (RCP) to General Business (GB)

WHEREAS, Article 18 of Chapter 153A of the North Carolina General Statutes provides for the planning and regulation of development within the territorial jurisdiction of the county; and

WHEREAS, the Cleveland County Planning Board recommended to approve the rezoning of four tracts containing approximately 18 acres along West Dixon Blvd. on October 10, 2006, stating that the land use plan projected this area for commercial use; and

WHEREAS, this property is classified as “Commercial” on the 2015+ Future Land Use Plan, and the General Business zoning district will be consistent with the comprehensive plan for this area; and

WHEREAS, said amendment will promote the health, safety, and welfare of the citizens of Cleveland County and said amendment would be beneficial to the orderly growth of Cleveland County.

WHEREAS, notice of the Public Hearing was published in the Shelby Star on October 6, 2006, and October 13, 2006, notices were mailed to adjoining property owners on October 6, 2006 and a sign posted in the area on October 6, 2006; and

WHEREAS, all requirements of the North Carolina General Statutes have been met prior to any action by the Cleveland County Board of Commissioners to amend the Official Zoning Map following a Public Hearing on October 17, 2006; and

NOW THEREFORE BE IT ORDAINED by the Cleveland County Board of Commissioners that the Cleveland County Zoning Map, as described in Section 12-147 of the Code, be amended to rezone parcels 32750, 32751, and 32784 from Residential Corridor Protection (RCP) to General Business (GB) as identified on the attached map designated “Rezoning Case 06-18”, being incorporated herein by reference and made part of this ordinance.

Tract 1:

BEGINNING at an iron pin in the South edge right-of-way for US Highway 74 South 06-31-58 West 87.16 feet to an iron; continuing thence North 80-01-28 West 5.00 feet to an iron; thence South 10-07-52 West 123.00 feet to an iron; thence South 79-36-56 East (passing an iron at 263.00 feet) 329.50 feet to a point in the Clay line; thence with the Clay and Setzer lines South 04-43-30 West 539.99 feet to a point in the intersection of gullies; thence with the center line of the gully as the same follows the Price and Falls line the following fifteen (15) calls: (1) North 77-57-48 West 15.61 feet to a point; (2) South 86-32-38 West 45.17 feet to a point; (3) South 79-14-20 West 80.62 feet to a point; (4) North 46-29-09 West 63.50 feet to a point; (5) North 74-51-34 West 61.49 feet to a point; (6) South 30-57-31 West 57.47 feet to a point; (7) South 41-18-52 West 98.42 feet to a point; (8) South 60-12-09 West 43.58 feet to a point; (9) South 80-46-36 West 39.71 feet to a point; (10) North 38-46-09 West 17.65 feet to a point; (11) South 86-50-56 West 26.23 feet to a point; (12) South 86-50-56 West 61.65 feet to a point; (13) South 86-50-56 West 15.15 feet to a point; (14) South 85-58-58 West 49.12 feet to a point; (15) South 85-58-53 West 21.32 feet to an iron; continuing thence North 89-50 West 139.73 feet to an iron Ollie McSwain’s corner; thence with the Ollie McSwain line the following two (2) calls: (1) North 10-07-52 East 195.24 feet to an iron; (2) North 79-33-00 West 214.66 feet to a pipe on the East edge right-of-way for Webb Road; thence East edge of said right-of-way the following eleven (11) calls: (1) North 09-26-32 West 109.08 feet to a point; (2) North 08-39-16 East 106.44 feet to a point; (3) North 07-29-30 East 84.40 feet to a point; (4) North 07-29-30 East 23.35 feet to a point; (5) North 06-01-54 East 36.78 feet to a point; (6) North 06-01-54 East 23.47 feet to a point; (7) North 04-55-59 East 55.86 feet to a point; (8) North 03-27-17 East 56.15 feet to a point; (9) North 01-05-02 East 76.25 feet to a point; (10) North 01-05-02 East 15.76 feet to a point; (11) North 00-03-27 West 147.08 feet to a right-of-way monument; thence with the South edge right-of-way for US Highway 74 North 64-53-22 East 85.77 feet to a right-of-way monument; continuing thence with said right-of-way South 79-36-56 East 510.00 feet to place of BEGINNING.

Tract 2:

Lying on the South side of West Dixon Boulevard and the West side of Lavista Drive; BEGINNING on a point in the South edge of the right-of-way of West Dixon Boulevard, Northeast corner of Junior Setzer (located North 85-30-42 East 223.9 feet from a right-of-way monument); and runs thence with the South edge of the right-of-way, North 78-51-38 East 235.71 feet (passing over a right-of-way monument in the line at 23.69 feet) to a new iron, Northwest corner of Junior Setzer; thence with the Setzer line and the center of the right-of-way for Lavista Drive. South 23-30 West 196.98 feet (passing over the Northwest corner of Verdie Poteat at 112.84 feet) to a railroad spike in the center of the right-of-way of Lavista

Drive and in the North line of Daisy Edwards; thence with the Edwards property, South 88 West 160.19 feet to an iron, Southeast corner of Junior Setzer; thence with the East line of Setzer, North 3 East 140.89 feet to the place of BEGINNING, containing 0.697 acre.

Tract 3:

Lying and being on the South side of US Highway 74 and West of Shelby, North Carolina; BEGINNING in the center of the said Highway, South 4 East 119.6 feet to a stake in the field; thence South 7 West 158.5 feet to a stake; thence North 88 East 100 feet to a stake in said line; thence North 3 East 294 feet to the center of the said Highway; thence in the center of the Highway South 76 ½ West 100 feet to the place of BEGINNING, containing 29,000 square feet, more or less.

Tract 4:

Lying and being on the South side of US Highway 74; BEGINNING on an iron stake in a gulley and runs thence North 11 ¼ East 271 feet to a point in the center of the said US Highway 74; thence in the center of the Highway North 79 East 98.5 feet to a point; thence South 4 East 119.6 feet to a stake a new corner; thence South 7 West 158.5 feet to a stake in a division line; thence in the division line North 87 ½ West 145 feet to the place of BEGINNING, containing 8/10 acre, more or less.

This Ordinance shall become effective upon adoption and approval.

BOILING SPRINGS: ROOM OCCUPANCY TAX COLLECTION CONTRACT

ACTION: Willie McIntosh made the motion, seconded by Jerry Self, and unanimously adopted by the Board, *to approve the following contract with Boiling Springs.*

CONTRACT FOR TAX COLLECTION

THIS AGREEMENT, made and entered into this the 17th day of October 2006, by and between the **COUNTY OF CLEVELAND, NORTH CAROLINA**, Party of the First Part, hereinafter referred to as “the County” and **THE TOWN OF BOILING SPRINGS, NORTH CAROLINA**, hereinafter referred to as “the Town”:

WITNESSETH:

WHEREAS, the County and the Town have successfully cooperated with each other in the past in the matter of tax assessment, tax listing, bill preparation, collection of property taxes by the County for the Town on a fee basis and other related matters; and

WHEREAS, legislation has recently been enacted that allows the Town of Boiling Springs to levy and collect a room occupancy tax on receipts from certain lodging establishments within the Boiling Springs municipal limits; and,

WHEREAS, the parties believe that the collection of such additional tax by the County for the Town on a fee basis would be advantageous to both parties and should also be the subject of an agreement for such purpose;

NOW THEREFORE, in consideration of the mutual covenants of the parties and for the purposes described above, *IT IS HEREBY AGREED* by and between the County and the Town as follows:

1. The County will bill and collect the Town’s room occupancy taxes which may become due to the Town pursuant to statutory and local legislation.
2. For the collection of the said room occupancy tax as described herein, the Town will pay the County an annual sum equal to two percent (2%) of all such gross tax collection proceeds up to and including the sum of five hundred thousand dollars (\$500,000). For all room occupancy taxes collected annually in excess of five hundred thousand dollars (\$500,000), the Town will pay the County a sum equal to one percent (1%) of such gross collection proceeds.
3. The County will not be responsible for collection of taxes due for any period prior to the applicable ten-year statute of limitations upon any tax account.
4. The County will keep all interest collected until it is distributed to the Town on or about the 10th day of each month.

5. Where a partial payment has been made by a taxpayer, it shall be distributed between the County and the Town proportionally on the same basis as the ration of the tax rate.
6. The proportion of the tax collections to which the Town is entitled shall be paid to the Town by the County, less the agreed collection fee, at least monthly.
7. The fee to which the County is entitled for said tax collection services rendered to the Town may be renegotiated at the instigation of either party upon thirty (30) days' written notice.
8. This Agreement shall become effective upon the date of its execution by the latter of the parties to execute it and shall exist for a period of five (5) years thereafter. Said term shall be automatically renewed for an unlimited number of successive terms of five (5) years each unless terminated by either party by the delivery of written notice of intent to terminate at the expiration of the five-year term during which such notice is delivered. Such notice shall be delivered not less than twelve (12) months prior to the expiration of any five-year term.

IN WITNESS WHEREOF, the County has caused this contract to be signed in its name by the Chair of its Board of Commissioners, attested by its Secretary and its corporate seal affixed, all pursuant to authority given by Resolution of the Board of Commissioners of Cleveland County, North Carolina, on the 17th day of October 2006.

IN WITNESS WHEREOF, the Town has caused this contract to be signed in its name by the Mayor, attested by its Clerk, and its corporate seal affixed, all pursuant to authority given by Resolution of the Board of Commissioners of the Town of Boiling Springs, North Carolina, on the 17th day of October 2006.

PLANNING DEPARTMENT: MINIMUM HOUSING CODE – 390 PREYER STREET – MACKEY (Tabled from September 19, 2006 meeting)

Mr. McCarter reviewed that Mr. Mackey was given 30-days, which expires on October 19, to repair the exterior of this residence to meet the minimum housing code. If these repairs were accomplished, Mr. Mackey would then be allowed until December 19th to make repairs bringing the interior of the residence up to code. Mr. McCarter reported that he has visited the site and Mr. Mackey has made all the required repairs. He advised no action is needed, so this is a report to make the Commission aware of Mr. Mackey's compliance.

Mr. Mackey thanked Commissioners for their visits to the site and for their cooperation in working with him on this matter. Chairman Hawkins told Mr. Mackey there would be no need for him to appear at the December 19, 2006 meeting if Mr. McCarter reports the interior requirements have been met.

COMMISSIONER REPORTS

Mary Accor

- Showed Commissioners an example of the "appearance award" – committee will continue to determine how these will be awarded.
- Reported she recently attended an NCACC meeting in Asheville, serving as Second Vice-President, where workers compensation was discussed – safety in the work place, risk pool. She noted they also discussed that their agenda should be shared with local boards to "keep everyone aware of what the Association is doing."

Johnny Hutchins

- Attended the 505th homecoming celebration.
- Feels the NCACC should set Medicaid relief as one of their priorities.

Willie McIntosh

- Questioned the status of “special awards for dignitaries” and was advised this project is almost complete.
- Pathways Board is reviewing the State revision of membership categories for the board and will review a “final draft at the Pathways meeting on Thursday.”
- Sports Authority – “full steam ahead” and a recent meeting started “identifying people to be at the table on this” project.

Jerry Self

- Also attended the 505th homecoming celebration.
- Centralina Council of Governments has a *SEQL (Sustainable Environment Quality of Life)* conference scheduled for October 24th in Charlotte and the head of the EPA will be there discussing such things as attainments, water resources and air quality. Centralina encourages all Commissioners to attend.
- Distributed a list of priorities from the Lake Norman RPO, noting he will attend the November 28th meeting of the Lake Norman RPO, after which another Commissioner will need to be appointed to be the representative to that Board.
- Requested a formal report on the zoning enforcement issue on Artee Road. He said the residence in question, which has a lot of junk and debris on the property, is located approximately a mile from Vice-Chairman Self’s home and encouraged Commissioners to go look at the site. He said it made him question “why do we even have zoning if we don’t enforce it.” Mr. McCarter advised this case has been turned over to the County Attorney. The County Attorney was directed to have a report on the status of this violation at the next Commission meeting (*November 7, 2006*). Commissioner McIntosh agreed, emphasizing the need for a code enforcement officer.

Ronnie Hawkins

- Reported he attended the Commission candidate forum held last night at Cleveland Community College.

David Dear

- Reminded Commissioners of the ribbon cutting for the new Emergency Medical Services base station at Kings Mountain to be held on November 9, 2006.

ADJOURN

There being no further business to come before the Board at this time, Mary Accor made the motion, seconded by Johnny Hutchins, and unanimously adopted by the Board, to adjourn the meeting (at 7:15 p.m.). The next regular meeting of the Commissioners is scheduled for ***Tuesday, November 7, 2006 in the County Commission Chamber.***

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

*Wanda Crotts, CMC, Clerk
Cleveland County Board of Commissioners*