

CLEVELAND COUNTY BOARD OF COMMISSIONERS

August 1, 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 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
Kerri Melton, Deputy County Clerk
Bill McCarter, Planning Director
Eddie Bailes, Assistant County Manager
Chris Crepps, Finance Director
Chris Green, Tax Administrator
Lindsey Allen, Cleveland Headline News
Pete DeLea, The Star
Other individual names on file in the Clerk's Office

CALL TO ORDER

Chairman Hawkins called the meeting to order, led the audience in the "Pledge of Allegiance" to the flag of the United States of America and 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, with the following additions:*

(1) **B.E.S.T. Program: Resolution** – *Add to consent agenda (McIntosh)*

SPECIAL RECOGNITION: CHRISTOPHER BALLEEN – SPACE CAMP

Commissioners presented Christopher with a certificate which read:

*Certificate of Recognition
From the
Cleveland County Board of Commissioners
Presented to
CHRISTOPHER BALLEEN
For being one of thirteen students selected to receive a full scholarship to attend
NASA's Space Camp Aviation Challenge, for his obvious hard work in completing
His application and science experiment and most importantly for pursuing his dreams.
Presented this the 1st day of August 2006*

CONSENT AGENDA

APPROVAL OF MINUTES

There being no corrections, additions, or deletions to the Minutes of **July 18, 2006**, motion was made by Mary Accor, seconded by Johnny Hutchins, and unanimously adopted by the Board, to **approve the minutes as written**.

HEALTH DEPARTMENT: BUDGET AMENDMENTS (BNA #002)

ACTION: Mary Accor made the motion, seconded by Johnny Hutchins, 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>
012.536.4.410.00/OHWTF-DISP	Nutrition/Local & Other Grants	\$109,282.	
012.536.5.121.00/OHWTF-DISP	Nutrition/Salaries-Reg	43,443.	
012.536.5.131.00/OHWTF-DISP	Nutrition/Social Security	2,694.	
012.536.5.132.00/OHWTF-DISP	Nutrition/Retirement	2,125.	
012.536.5.133.00/OHWTF-DISP	Nutrition/Hospitalization Insurance	6,048.	
012.536.5.134.00/OHWTF-DISP	Nutrition/Dental Insurance	234.	
012.536.5.135.00/OHWTF-DISP	Nutrition/Employee 401K	2,173.	
012.536.5.136.00/OHWTF-DISP	Nutrition/Medicare Insurance	630.	
012.536.5.211.00/OHWTF-DISP	Nutrition/Controlled Prop. Exp.	3,000.	
012.536.5.213.00/OHWTF-DISP	Nutrition/Office Supplies	4,000.	
012.536.5.220.00/OHWTF-DISP	Nutrition/Food	6,000.	
012.536.5.310.00/OHWTF-DISP	Nutrition/Travel Expenses	4,700.	
012.536.5.311.00/OHWTF-DISP	Nutrition/Education Expense	11,000.	
012.536.5.321.00/OHWTF-DISP	Nutrition/Telecommunications	360.	
012.536.5.322.00/OHWTF-DISP	Nutrition/Postage	540.	
012.536.5.370.00/OHWTF-DISP	Nutrition/Advertising	8,000.	
012.536.5.422.00/OHWTF-DISP	Nutrition/Contracted Labor	5,000.	
012.536.5.490.00/OHWTF-DISP	Nutrition/Professional Services	9,335.	

Explanation of Revisions: The Cleveland County Health Department has been awarded a \$360,000 grant from the NC Health & Wellness Trust Fund Commission. We request these funds be budgeted for a 12-month Health Education Specialist and a PH Educator I (6-months) and expenses associated with the fulfillment of the grant. The primary purpose of this grant is to address health disparities through health interventions/education in the African-American population in Cleveland County.

HEALTH DEPARTMENT: BUDGET AMENDMENTS (BNA #003)

ACTION: Mary Accor made the motion, seconded by Johnny Hutchins, 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>
012.533.4.350.00/93283-4514	Adult Health/State Government Grants	\$2,875.	
012.533.5.213.00/93283-4514	Adult Health/Office Supplies	2,875.	

Explanation of Revisions: Budget Pan Flu supplemental funds for supplies necessary to distribute BT preparedness and response plans to community organizations.

LANDFILL – MANNED SITES: BUDGET AMENDMENTS (BNA #004)

ACTION: Mary Accor made the motion, seconded by Johnny Hutchins, 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>
054.474.4.810.00	Manned Sites/Contributions-Donations	\$ 500.	
054.474.4.991.00N	Manned Sites/Fund Balance Appropriated	2,500.	

054.474.5.790.00 Manned Sites/Donations-Contributions 3,000.

Explanation of Revisions: To budget for donations received from Waste Management Company and GDS to help offset cost of tarps to be distributed to county residents to new county ordinance to have refuse covered while being hauled in county - \$2,500 was received in FY 05/06 and \$500 received in FY 06/07.

DAY REPORTING CENTER: CHANGE IN PROGRAM NAME

ACTION: Mary Accor made the motion, seconded by Johnny Hutchins, and unanimously adopted by the Board, *to approve the re-designation of the Day Reporting Center to a Resource Center.*

Fundamental program changes resulting in re-designation were listed as follows:

- DRC must conduct services “on-site” – Resource Center can offer the services at an “off-site” location by a contracted provider.
- DRC requires a “Day” and “Evening” program schedule – Resource Center allows for a “Day” program only.
- Staffing by Probation is more intensive with a DRC. Probation has experienced a significant increase in caseloads in recent years, and Resource Center designation will allow for staffing flexibility by the local Judicial District Manager.
- The DRC’s Core services (*substance abuse treatment and GED education*) will not be changed by the re-designation, but will simply allow for program flexibility in the event off-site contract providers are utilized.

ECONOMIC DEVELOPMENT INDUSTRIAL INCENTIVES: CHRIS CRAFT AND INDIAN MOTORCYCLES (Schedule public hearings for August 15, 2006)

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

RESOLUTION: SUPPORT OF DESTINATION CLEVELAND COUNTY

ACTION: Mary Accor made the motion, seconded by Johnny Hutchins, and unanimously adopted by the Board, *to approve the following resolution.*

Number 16-2006

**IN SUPPORT OF
DESTINATION CLEVELAND COUNTY**

WHEREAS, a group of private citizens has created an organization known as Destination Cleveland County, for the purpose of encouraging economic development in Cleveland County through the promotion of the community as a travel destination and the development of visitor attractions; and,

WHEREAS, the efforts of Destination Cleveland County will include projects throughout Cleveland County and will benefit all Cleveland County citizens through the economic impact of tourism dollars and cultural events.

NOW, THEREFORE, BE IT RESOLVED that the Cleveland County Board of Commissioners hereby supports the efforts of Destination Cleveland County in promoting our county as a travel destination as well as in the development of visitor attractions.

ADOPTED THIS THE 1ST DAY OF AUGUST 2006.

RESOLUTION: BRINGING EXECUTIVES AND STUDENTS TOGETHER PROGRAM

ACTION: Mary Accor made the motion, seconded by Johnny Hutchins, and unanimously adopted by the Board, *to approve the following resolution.*

NUMBER 17-2006

**IN APPRECIATION OF DR. FRANK BONNER
AND GARDNER-WEBB UNIVERSITY'S
"BRINGING EXECUTIVES AND STUDENTS TOGETHER" PROGRAM**

WHEREAS, Gardner-Webb University's "Bringing Executives and Students Together" (B.E.S.T.) program is a self-development process of life-long learning to prepare young people for a future of excellence and success;

WHEREAS, the B.E.S.T. program process is also designed to help today's youth develop their personal leadership skills;

WHEREAS, leadership is essential in enabling youth to develop character, confidence and values that promote the goal of healthy behavior;

WHEREAS, small business owners have an important story to tell and a valuable message to share with America's youth. The B.E.S.T. program is designed to bring real life stories of entrepreneurs into the week-long educational experience;

WHEREAS, this week-long school will enable students to learn basic entrepreneurial skills – such as budgeting, banking, computer skills, marketing, and study skills. Also, the risks and rewards of operating a small business will be addressed. Students will work with staff at Gardner-Webb University, student organizations and local entrepreneurs in enhancing their ability in the above areas. B.E.S.T. members bring learning to life, by sharing their experiences of taking an idea and turning it into a reality.

NOW, THEREFORE, BE IT RESOLVED, that the Cleveland County Board of Commissioners, express their sincere appreciation to Dr. Frank Bonner and Gardner-Webb University for their support of the B.E.S.T. program, which enables each student to realize that they are the BEST!

ADOPTED THIS THE 1st DAY OF AUGUST 2006.

CITIZENS RECOGNITION

TRACY MINTZ ZONING MAP AMENDMENT PETITION

The following people spoke regarding the Tracy Mintz rezoning petition.

Reverend Thomas McCluney expressed his support for the rezoning, stating he has known Mr. Mintz all of his life and believes he has been "a blessing to the community." He stated he believes the project proposed by Mr. Mintz will be appropriate for the community.

Reverend Franklin Kelly expressed his support, saying he feels Mr. Mintz is "doing great work" in the community. He said he has been a resident of the community for 30-years and has seen "tragedy in the community" but believes Mr. Mintz is for coming forth to "help the community."

Keith Shade also spoke in support, stating "change has to take place in order for progress to occur." He said he believes Mr. Mintz will bring the "light back to Light Oak" and that community residents "can't be afraid of what might occur" but focus on the positive things that are occurring.

Tracy Mintz, petitioner, presented a petition with 182 signatures of support; stated he held a community meeting last Saturday to address concerns of those who were unsure of his plans for the property and felt it was a "productive" meeting. He requested Commissioners "strongly consider" his request and said that he would abide by their decision as "what should be."

I. G. Alexander said he met with Mr. Mintz on Saturday and agreed it was a productive meeting; however, still felt some questions remained to be answered. He feels Mr. Mintz is an honorable man, but fears what could “follow him” if the zoning is changed and opened up to undesirable groups.

Claude Wall stated he is against the “spot zoning”, stating he also fears what may follow, he also expressed concern over the lack of adequate parking. He fears the place would become a “hang out” and recalled the “killing and shootings” that occurred at the previous “Studio 52.”

James Martin questioned what was going to be built and where, stating he does not want to see “what happened on Morton Street happen here.”

CITY OF SHELBY: PLANNING AND ZONING ADVISORY BOARD ETJ APPOINTMENTS

Chairman Hawkins opened the public hearing. (*Public notice of this hearing was conducted in accordance with NCGS 160A-362, with legal advertisement published in the Star on July 17 and July 24, 2006.*) Hearing no comments or nominations from the floor, Chairman Hawkins declared the public hearing closed.

ACTION: Johnny Hutchins made the motion, seconded by Mary Accor, and unanimously adopted by the Board, to ***(1) appoint Bob Cabiness to serve a three-year term, scheduled to conclude June 2009; and, (2) appoint Roy Dedmon, effective October 17, 2006, pending his completion of Commission mandated training scheduled for that day, for a three-year term, scheduled to conclude June 2009.***

PLANNING DEPARTMENT: ZONING MAP AMENDMENT – TRACY MINTZ – 2206 ELIZABETH AVENUE (Case #06-11)

Mr. McCarter reviewed that this case was continued from the July 18, 2006 Commission meeting, noting a public hearing was held during that meeting.

There was discussion among Commissioners regarding different aspects of this case, such as if an “entertainment club” would be permitted in a Neighborhood Business district – would be a “conditional use” and would require a public hearing before the Board of Adjustment; spot zoning – not illegal in North Carolina, but creates a lot of discussion any time it comes up; there is a difference of opinion between the Planning Consultant and the Planning Board – consultant looks more at Land Use Map and the Planning Board looks more at the definition; Health Department would address waste water concerns if a coin laundry was installed, as has been listed as one of the possible uses of the proposed building; Commissioner McIntosh stated he felt “the biggest problem there has been bad landlords who allowed drug use and entertainment club to exist” and that “communities have to change to move forward”; Commissioners felt communication, economic vitality, and that the developer will need to be sure this does not turn into another “Studio 52” situation, and the fact they see the “community coming together” over this issue as a good sign of success.

ACTION: Willie McIntosh made the motion, seconded by Johnny Hutchins, and unanimously adopted by the Board, *to approve the rezoning from Restricted Residential to Neighborhood Business by adopting the following ordinance.*

ORDINANCE AMENDING THE CLEVELAND COUNTY ZONING MAP
One acre tract at 2206 Elizabeth Avenue
Restricted Residential (RR) to Neighborhood Business (NB)

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 this parcel on June 27, 2006, stating that the primary function of the Neighborhood Business district was to serve the surrounding residential area, and this intersection was considered a reasonable location for neighborhood business activities; and

WHEREAS, this property is classified as “Residential” on the 2015+ Future Land Use Plan, and the Neighborhood Business zoning district will be consistent with the comprehensive plan in 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 July 6, 2006, and July 13, 2006, notices were mailed to adjoining property owners on July 6, 2006 and a sign posted in the area on July 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 July 18, 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 25309 from Restricted Residential (RR) to Neighborhood Business (NB) as identified on the attached map designated “Rezoning Case 06-11”, being incorporated herein by reference and made part of this ordinance.

BEGINNING at a point in the right-of-way of Elizabeth Avenue, thence North 78-11 East 227.65 feet, thence South 17-41 West 310.87 feet to a point in the right-of-way of Oak Grove Road, thence North 52-58 West 210.05 feet to the junction of Oak Grove Road and Stony Point Road, thence North 17-41 East 129.20, to the place of BEGINNING, containing one acre, more or less. (DB 1483-1998)

This Ordinance shall become effective upon adoption and approval.

Adopted this 1st day of August, 2006 at 6:00 p.m.

PLANNING DEPARTMENT: MINIMUM HOUSING CODE VIOLATION – 339 HOLMES STREET – CHARLES & RENEE MONTGOMERY

Mr. McCarter explained a public hearing was held on March 30, 2006 and the owners were allowed 90-days to demolish the dwelling. The order was served by registered mail on April 3, 2006 and expired on July 3, 2006. The property was re-inspected and no action had been taken to repair or demolish the dwelling. Mr. McCarter noted this is the second property owned by Mr. and Mrs. Montgomery that the county has demolished under the Minimum Housing Code.

Commissioners discussed the cost of this process – fire department burns structures as “practice burns” at no cost to the county; only cost to county is “up-front cost” for mailing notices; possible ways to recoup expenses; benefit to community of cleaning up the burned area – Mr. McCarter said usually there is little need for clean up with wooden structures, as the fire department does such a good job at burning.

ACTION: Johnny Hutchins made the motion, seconded by Willie McIntosh, and unanimously adopted by the Board, *to approve the demolition by adopting the following order.*

CLEVELAND COUNTY
NORTH CAROLINA

AN ORDINANCE AUTHORIZING THE CODE ENFORCEMENT OFFICER TO DEMOLISH
DWELLING AT 339 HOLMES STREET

WHEREAS, pursuant to the provisions of Chapter 160A, Article 19, Part 6 of the North Carolina General Statutes, the dwelling located at 339 Holmes Street, Cleveland County, North Carolina have been inspected and found to be unfit for human habitation and to otherwise constitute a danger to persons and a threat to the health and welfare of the citizens within County; and

WHEREAS, according to the procedures provided by law, the owner(s) of said property have been given notice of the aforesaid inspection, defective conditions, determination and order to bring said property into compliance with the minimum housing code of Cleveland County and the State of North Carolina by appropriate repair and/or demolition of said dilapidated dwelling(s); and

WHEREAS, the owner(s) have not complied with the Findings and Order by the Code Enforcement Officer within the period allowed by law; and

WHEREAS, the said dilapidated dwelling(s) remain at this time unfit for human habitation, dilapidated, and a danger to the health and safety of the citizens of Cleveland County and should be demolished in order to prevent and alleviate such danger and dilapidated conditions;

NOW, THEREFORE, BE IT ORDAINED BY THE CLEVELAND COUNTY BOARD OF COMMISSIONERS that the dilapidated dwelling located at 339 Holmes Street now or formerly owned by Charles D. & Renee Montgomery, shall be demolished, and a lien placed against the property for the costs incurred by the county as provided by GS160A-446(6).

Adopted and approved this the 1st day of August 2006 by the Cleveland County Board of Commissioners in open session.

PLANNING DEPARTMENT: MINIMUM HOUSING CODE VIOLATION – 1671 FRIENDSHIP
ROAD – GERRY LEE LAWRENCE

Mr. McCarter noted this case was continued from the Commission meeting of April 4, 2006, in order to allow another attempt to contact the owner, who was reported at that time to be in prison.

Mr. McCarter has confirmed that he is in federal prison until October 2011. He noted a block advertisement was published in the Star on April 10 notifying all interested individuals that this order to demolish was pending. He has not been contacted by anyone.

ACTION: Willie McIntosh made the motion, seconded by Jerry Self, and unanimously adopted by the Board, *to table a decision on this case and instructed Mr. McCarter to contact Mr. Lawrence*

in prison regarding the pending order to demolish, allowing him the opportunity to have a family member make the repairs.

COMMISSIONERS REPORT

Commissioner Accor:

- Distributed the 2006-2007 Cleveland County Schools calendar, which includes “school policy.”
- Invited Commissioners to attend the B.E.S.T. graduation on Friday at noon at Ritch Banquet Hall at Gardner-Webb University. She said this has been a “wonderful program” and 125 students have participated.

Commissioner Hutchins:

- Advised he had attended the Cleveland Volunteer Fire Department “grand opening” of their new wing.
- Stated, “We alluded to the moving of the EMS station at Waco, and I mentioned to some of you back earlier. David has went up and looked at the building, we talked to the fire chief. The purchased a small building beside of the Fire Department and so that’s very promising and probably a better situation that we use the small building to house our unit and it be a little bit separate and take on the utilities and so forth and we’re still gonna come out alright and still keep a presence in that area for public relations.”

Chairman Hawkins:

- Reminder of the public hearing for Duke Power – August 31, 2006 at 10:00 a.m. – Shelby City Council Chamber – encouraged Commissioners to attend. The Chairman has also submitted a “guest article” to the Star which outlines the need of the power station.

Leash Law

- Commissioners reported calls regarding the possible enactment of a leash law. It was noted this will be an item on the upcoming work session agenda.

RECESS TO RECONVENE

There being no further business to come before the Board at this time, Willie McIntosh made the motion, seconded by Jerry Self, and unanimously adopted by the Board, to recess (*at 7:35 p.m.*) ***to reconvene for a work session on Thursday, August 10, 2006 at 4:00 p.m.*** in this Commission Chamber.

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

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