

**CLEVELAND COUNTY BOARD OF COMMISSIONERS**

**July 10, 2007**

The Cleveland County Board of Commissioners met in a regular session on this date, at the hour of 6:00 p.m., in the Commission Chamber of the Cleveland County Administrative Offices.

**PRESENT:** Mary S. Accor, Chairwoman  
Eddie Holbrook, Vice-Chairman  
Jo Boggs, Commissioner  
Ronald J. Hawkins, Commissioner (arrived at 6:25 p.m.)  
Johnny Hutchins, Commissioner  
David C. Dear, County Manager  
Robert Yelton, County Attorney  
Kerri Melton, Clerk to the Board  
April Crotts, Deputy Clerk  
Eddie Bailes, Assistant County Manager  
Bill McCarter, Planning Director  
Chris Green, Tax Administrator  
Chris Crepps, Finance Director  
Pete Delea, *Shelby Star*  
Kathryn Larson, *Cleveland Headline News*  
Other individual names on file in the Clerk's Office

**CALL TO ORDER**

Chairwoman Mary Accor called the meeting to order and led the audience in the "Pledge of Allegiance" to the flag of the United States of America. County Manager David Dear provided the invocation for the meeting.

**AGENDA ADOPTION**

**ACTION:** Johnny Hutchins made the motion, seconded by Jo Boggs, and unanimously adopted by the Board, to *adopt the agenda as presented by the County Clerk, with the following additions:*

*(1) Resolution to approve NCDOT Secondary Roads Program.*

**CONSENT AGENDA**

**APPROVAL OF MINUTES**

There being no corrections, additions, or deletions to the Minutes of *June 5, 2007 and June 19, 2007*, motion was made by Johnny Hutchins, seconded by Eddie Holbrook, and unanimously adopted by the Board, to *approve the minutes as written.*

**TAX COLLECTOR'S MONTHLY REPORT**

The Tax Collector provided Commissioners with the following detailed written report regarding taxes collected during *June 2007* (copy found on Page \_\_\_\_\_ of Minute Book 28).

**TAX ADMINISTRATION: ORDER TO COLLECT TAXES**

**ACTION:** Johnny Hutchins made the motion, seconded by Eddie Holbrook, and unanimously adopted by the Board, to *approve the following Order to Collect Taxes.*

State of North Carolina  
 County of Cleveland

To Linda Wiggins, Tax Collector:

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records for the year 2007, and all taxes outstanding for tax years 1997 through 2006, as filed in the office of the Tax Collector and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in Cleveland County and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, and to use or cause to be used, all remedies provided by law.

Adopted this the 10<sup>th</sup> day of July 2007.

**MEMORANDUM OF UNDERSTANDING- INDUSTRIAL PARK SITE**

David Dear, County Manager, presented Commissioners with a Memorandum of Understanding between Cleveland County and William C. Smith, Jr., David Cuda, and John Barker, Jr. regarding the purchase of approximately 10 +/- acres in the Cleveland County Industrial Park (*copy found on Page \_\_\_\_\_ of this Minute Book*).

**ACTION:** Johnny Hutchins made the motion, seconded by Eddie Holbrook, and unanimously adopted by the Board, *to approve the Memorandum of Understanding.*

**RESOLUTION: NORTH CAROLINA DEPARTMENT OF TRANSPORTATION APPROVAL OF 2007-2008 SECONDARY ROADS IMPROVEMENT PROGRAM**

At the June 19th Commission meeting, NCDOT District Engineer Gary Spangler presented the NCDOT Secondary Roads Improvement to Commissioners.

**ACTION:** Johnny Hutchins made the motion, seconded by Eddie Holbrook, and unanimously adopted by the Board *to adopt the following resolution:*

**21-2007**

**NORTH CAROLINA DEPARTMENT OF TRANSPORTATION  
 APPROVAL OF 2007-2008 SECONDARY ROADS IMPROVEMENT PROGRAM**

**WHEREAS**, representatives from the North Carolina Department of Transportation appeared before the Board of Commissioners on June 19, 2007 and presented the Secondary Roads Improvement Program for 2007-2008 for Cleveland County.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF CLEVELAND COUNTY, NORTH CAROLINA** that the Cleveland County Board of Commissioners has reviewed said program and concurs with the Secondary Roads Improvement Program for 2007-2008 as presented by the representatives of the North Carolina Board of Transportation as attached:

**North Carolina Department of Transportation  
 Secondary Roads Construction Program**

**Cleveland County**

**FY 2007-2008 Anticipated Allocation**

Highway Fund G.S. 136-44.5b	<u>\$1,099,162.52</u>
Highway Fund G.S. 136-44.5c	<u>\$247,562.86</u>
Trust Fund G.S. 136-182	<u>\$1,105,374.90</u>
<b>Total</b>	<b>\$ 2,452,100.28</b>

**Programmed Paving Goal: 4.87**

**I. Paving Unpaved Roads**

A. Rural Paving Priority Highway Fund G.S. 136-4.5c

Priority Number	SR No.	Length (Miles)	Road Name and Description	Est. Cost
11	2204	0.50	Sylvan Rd. Grade, Base, & Pave From SR 1103 to DE	\$ 137,500.00
<b>Total</b>		<b>0.50</b>	<b>Subtotal:</b>	<b>\$ 137,500.00</b>

A. Rural Paving Priority Trust Fund G.S. 136-182

Priority Number	SR No.	Length (Miles)	Road Name and Description	Est. Cost
	1907	0.13	Parham Beam Rd. Grade, Base, & Pave From End Pave to SR 1906 (R/W Hold)	\$ 40,000.00
10F	2331	0.40	McCurry Rd. Grade, Base, & Pave From SR 2218 to DE	\$ 110,000.00
12	1338	0.48	Bob Falls Rd. Grade Base, & Pave From SR 1351 to 1339	\$ 132,000.00
13	1839	0.90	Wellmon Rd. Grade, Base, & Pave From SR 1805 to DE	\$ 247,500.00
14	1571	0.40	Barksdale Dr. Grade, Base, & Pave From NC 10 to DE	\$ 110,000.00
15	1534	0.60	Otis Rd. Grade, Base, & Pave From SR 1533 to SR 1530	\$ 165,000.00
16	1885	1.46	Selkirk Rd. Grade, Base, & Pave From SR 1801 to Sr 1802 (Part. Funded)	\$ 70,000.00
<b>Total</b>			<b>4.37</b>	<b>Subtotal: \$ 804,500.00</b>

B. Subdivision Paving Priority: There are no subdivision road remaining in the priority

\* Rural Paving Alternatives

Priority Number	SR No.	Length (Miles)	Road Name and Description	Est. Cost
17	1606	0.27	Hallman Mill Rd. Grade, Base, & Pave From SR 1607 to Co. Line	\$ 74,250.00
18	1372	1.00	Elliot Cemetary Rd. Grade, Base, & Pave From SR 1361 to DE	\$ 275,000.00
19	2284	0.20	Early Rd. Grade, Base, & Pave From SR 2283 to DE	\$ 50,000.00

\* In the event that any roads in priority have to be placed on the "Hold List" due to unavailable right of way or environmental review, or if additional funding becomes available, funds will be applied to the roads listed in priority order in the paving list alternate list.

II. General Secondary Road Improvements

A. Unpaved Road Spot Improvements

Highway Fund G.S. 136-44.5c (20%)	\$49,512.57
Trust Fund G.S. 136-182 (20%)	\$221,074.98
<b>Subtotal:</b>	<b>\$270,587.55</b>

B. Paved Road Spot Improvements: Highway Fund G.S. 136-44.5b

Priority Number	SR No.	Length (Miles)	Road Name and Description	Est. Cost
	2049	1.04	Kings Rd. Widen to 3 lanes From NC 180 to SR 2052	\$ 429,162.52
	1337	4.02	Zion Ch. Rd. Widen 2' each side From NC 226 to NC 18	\$ 320,000.00
	1643	4.42	Lawndale / Belwood Rd. Widen 2' each side From SR 1004 to NC 18	\$ 350,000.00
<b>Subtotal:</b>				<b>\$ 1,099,162.52</b>

III. Funds reserved for surveying, right of way acquisition, right of way acquisition, road additions, contingencies, overdrafts, and paving entrances to certified fire departments, rescue squads, etc.

Highway Fund G.S. 136-44.5c	\$60,550.29
Trust Fund G.S. 136-182	\$79,799.92
<b>Subtotal:</b>	<b>\$ 140,350.21</b>

**GRAND TOTAL: \$2,452,100.28**

**Adopted and approved this the 10th day of July 2007.**

**PUBLIC HEARINGS**

**PUBLIC HEARING: TRANSPORTATION ADMINISTRATION OF CLEVELAND COUNTY (TACC): RURAL OPERATING ASSISTANCE PROGRAM (ROAP) APPLICATION**

Tom Crider, TACC Director, reviewed the criteria for this yearly application. Mr. Crider explained the application by informing the commissioners of the various programs included in the application and the requested funding.

**Elderly and Disabled Transportation Assistance Program (EDTAP):**

This program provides operating assistance for the transportation of elderly and disabled citizens. This transportation assistance allows for the individual to reside for longer periods in their homes, thereby enhancing their quality of life. For the purpose of EDTAP, an elderly person is defined as one who reaches the age of 60 or more years. A disabled person is defined as one who has a physical or mental impairment that substantially limits one or more major life activity, an individual who has a record of such impairment, or an individual who is regarded as having such impairment.

**Work First Transitional/Employment Transportation Assistance Program (EMP)**

This program is intended to provide operating assistance for transitional Work First, Workforce Development Programs and general public employment transportation needs. These funds are used to support the employment transportation needs of individuals that are not eligible to receive benefits from the Temporary Assistance for Needy Families (TANF) program.

**Rural General Public Program (RGP)**

These funds are intended to provide transportation service to individuals who are not human service agency clients.

<b>PROGRAM</b>	<b>TOTAL</b>
EDTAP	\$67,310
EMP	\$17,511
RGP	\$61,245
<b>TOTAL</b>	<b>\$146,066</b>

Chairwoman Accor at 6:10 p.m., declared the public hearing open. Hearing no comments, Chairwoman Accor closed the public hearing.

**ACTION:** Jo Boggs made the motion, seconded by Eddie Holbrook, and unanimously adopted by the Board, *to approve the Rural Operating Assistance Program (ROAP) application.*

**PLANNING DEPARTMENT: ZONING MAP AMENDMENT (Case #07-04) (Tim Harrelson, 731 Stony Point Road)**

Mr. McCarter reported that Tim Harrelson has presented a petition to rezone .46 acres at 731 Stony Point Road from Residential Manufactured Home Parks (RM) to General Business (GB). He reviewed the background information on this petition as follows:

- Existing Land Use: The property has a vacant building. Surrounding land uses are residential to the south, a mobile home park to the west, and commercial uses to the north.
- Future Land Use: Commercial Node
- Utilities: Public water provided by CCSD, no public sewer
- Transportation: Stony Point is considered a major collector. Current traffic volume is 3,700 vehicles per day with a capacity of 8,000 vehicles.

Mr. McCarter also reviewed the following recommendations from the Planning Board and the Isothermal Planning Consultant.

Planning Consultant Recommendation: Approve  
Chuck Nance, Isothermal Planning & Development Commission

Based upon all information provided, with particular interest in details such as the adjacent property already zoned General Business and future land use projected as a commercial node, it is our opinion that Cleveland County could legally rezone the property from Residential Manufactured Homes (RM) to General Business (GB).

Planning Board Recommendation: Approve  
John McCulloch, Chairman

The Planning Board voted unanimously to recommend this rezoning. This decision was based on the following facts:

***Conforms with the 2015 Land Use Plan***

This property is located within a 1000' Commercial Node encompassing the intersection of Oak Grove Road and Stony Point Road.

***Spot Zoning***

This request is an expansion of an existing General Business zoning district, and therefore would not be considered spot zoning.

***Adequate Utilities & Roads***

Stony Point Road is classified by NCDOT as a major collector. Traffic volume is estimated at 46% of the practical capacity of 8,000 ADT. Public water is provided by CCSD, no public sewer available.

### ***Options***

Recent changes in NCGS 153A-341 now require that the governing board adopt a statement of consistency with the Land Use Plan. This statement must also explain why the board believes the action taken was reasonable and in the public interest.

- Approve the rezoning as submitted
- Change the classification to Neighborhood Business NB
- Deny the rezoning

Chairwoman Accor opened the public hearing. (*Notice of this hearing was accomplished in accordance with NCGS 153A-343, with legal advertisements published in the Star on June 28 and July 5, 2007.*) Hearing no comments, Chairwoman Accor declared the public hearing closed.

**ACTION:** Johnny Hutchins made the motion, seconded by Jo Boggs, and unanimously adopted by the Board, ***to approve the rezoning and adopt the following ordinance.*** (*Clerk's note: Commissioner Holbrook stated that he would like to abstain from voting due to a personal relationship with the petitioner. However, under NCGS 153A-44 [Duty to Vote] and Commission policy his failure to vote was recorded as an affirmative vote.*)

### **ORDINANCE AMENDING THE CLEVELAND COUNTY ZONING MAP 731 Stony Point Road – 0.46 acres Residential Manufactured Homes & Parks (RM) 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 this parcel totaling 0.46 acres on June 26, 2007; and

WHEREAS, this parcel is classified as “Commercial” on our 2015 Future Land Use Plan, and therefore the General Business zoning district would 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, the public interest would be furthered, and said amendment would be reasonable and beneficial to the orderly growth of Cleveland County.

WHEREAS, notice of the Public Hearing was published in the Shelby Star on June 28, 2007, and July 5, 2007, notices were mailed to adjoining property owners on June 15, 2007 and a sign posted at the property on April 13, 2007; 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 10, 2007; 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 16306, from Residential Manufactured Homes & Parks (RM) to General Business (GB), as identified on the attached map designated “Rezoning Case 07-04”, being incorporated herein by reference and made part of this ordinance.

BEGINNING at a point in centerline of Stony Point Rd.; thence with the road S04-10W 235.1 feet; thence following property lines N76-30W 55.5 feet, N11-45E 18.8 feet, N16-30W 223.5 feet, S84-45E 131 feet, to the point of beginning, containing approximately 0.46 acres.

This Ordinance shall become effective upon adoption and approval.

Adopted this 10th day of July 2007 at 6:00 p.m.

### **FOREST RANGER REPORT**

Travis Shidal, Cleveland County Forest Ranger, presented Commissioners with a report of activities covering July 1, 2006 to June 30, 2007 (*copy found on Page \_\_\_\_\_ of this Minute Book*).

### **DESTINATION CLEVELAND COUNTY UPDATE**

Brownie Plaster, Chairwoman, of Destination Cleveland County (DCC) gave an update on the progress of Destination of Cleveland County since its inception one year ago (*copy found on Page \_\_\_\_\_ of this Minute Book*).

Ms. Plaster explained that Destination Cleveland County is now working under a mission and vision statement. This past year, the members have been researching and traveling. They have worked with several consultants and most recently hired a local architect to begin work on the theatre project. Millie Wood and Sherry Grenier, along with a group of approximately forty volunteers, have been accurately documenting all items located in the Old Courthouse. They are working to develop a collections policy. Marta Holden, DCC Executive Director, asked for the continued support of the Commissioners.

### **TOWN OF POLKVILLE SEWER PROJECT**

County Manager, David Dear spoke about the Town of Polkville sewer project. In September 2003, the Town of Polkville applied for a grant through the North Carolina Rural Center to be used for the development of a sewer system. A \$400,000 grant was awarded in early 2004. The design was completed and the project was bid. The low bid resulted in the Town being over budget by approximately \$300,000. Some modifications have been made to the design and the Engineer has agreed to waive some of his fees on the project, still, resulting in an overage of approximately \$250,000. On June 7<sup>th</sup>, the Town of Polkville was granted an additional \$100,000 from The Rural Center. Jack Shytle, Mayor Town of Polkville, explained that if the town is unable to provide for the remaining \$150,000 they will lose the entire \$500,000 from the Rural Center. The Town of Polkville has agreed to commit an additional \$75,000 toward funding this project (in addition to an original commitment of \$67,250). Mayor Shytle requested that Commissioners consider granting the remaining \$75,000 to the Town of Polkville to complete this project. This project will provide sewer service to Union School as well as several residents and businesses in the Town of Polkville.

Several Commissioners voiced their support of this project. Commissioner Hawkins explained to Mr. Shytle, the importance of infrastructure and the possibility of the Town of Polkville addressing their current tax rate. Mr. Shytle agreed, however, he felt that since this project would not provide sewer service to the entire town, he would not want to “tax some to help others”.

**ACTION:** Eddie Holbrook made the motion, seconded by Jo Boggs and unanimously adopted by the Board, *to provide the Town of Polkville \$75,000 toward the funding of the Town of Polkville Sewer Project.*

**PLANNING DEPARTMENT: ABANDONMENT OF PUBLIC RIGHT-OF-WAY UN-NAMED ROAD IN BEAMUS SMITH SUBDIVISION**

Bill McCarter, Planning Director presented a petition to Commissioners for the abandonment of a portion of an un-named road in the Beamus Smith Subdivision.

**ACTION:** Ronnie Hawkins made the motion, seconded by Jo Boggs, and unanimously adopted by the Board, *to adopt the following resolution.*

**NUMBER 20-2007**

**RESOLUTION**  
**INTENT TO ABANDON PUBLIC RIGHT-OF-WAY**  
**BEAUMUS SMITH SUBDIVISION**

**WHEREAS,** the Board of County Commissioners of Cleveland County, North Carolina, have received a petition from property owners adjoining the **Un-named Roads in the Beamus Smith Subdivision**, requesting that the public right-of-way (*approximately 900 feet*) be abandoned.

**NOW THEREFORE BE IT RESOLVED THAT,** in accordance with the mandates of NCGS 153A-241, the Cleveland County Board of Commissioners do hereby call for a public hearing regarding the proposed abandonment of a portion of **Un-named Roads in the Beamus Smith Subdivision**, to hear all interested persons with respect to the proposed abandonment, on **TUESDAY, August 7, 2007, at 6:00 p.m.** in the Commission Chamber, Cleveland County Administrative building, 311 East Marion Street, Shelby, North Carolina.

Adopted this 10<sup>th</sup> day of July, 2007

**WORKFORCE DEVELOPMENT BOARD APPOINTMENT**

**ACTION:** Ronnie Hawkins made the motion, seconded by Johnny Hutchins, and unanimously adopted by the Board, *to appoint Charles McCloud and David Pharr to serve as a members of this board*, for a term of three-years, scheduled to conclude on June 30, 2010.

**NORTH CAROLINA EDUCATION LOTTERY PUBLIC SCHOOL BUILDING CAPITAL FUND APPLICATION**

Chris Crepps, Finance Director, presented an application to use North Carolina Education Lottery funds toward the construction of the Kings Mountain High School CTE Building. Mr. Crepps explained that this \$725,000 request has already been approved by the Cleveland County School Board.

**ACTION:** Jo Boggs made the motion, seconded by Ronnie Hawkins and unanimously adopted by the Board, *to approve the Public School Building Capital Fund North Carolina Education Lottery application.*

**NORTH CAROLINA ASSOCIATION OF COUNTY COMMISSIONERS: ANNUAL CONFERENCE VOTING DELEGATE SELECTION**

**ACTION:** Johnny Hutchins made the motion, seconded by Jo Boggs and unanimously adopted by the Board, *to appoint Vice-Chairman Eddie Holbrook to serve as voting delegate at the 2007 Annual NCACC conference.*

**DISCUSSION OF COMMISSION WORK SESSION DATE AND TIME**

Chairwoman Accor confirmed that the work session will be held on August 7<sup>th</sup> at 3:00pm to include topics such as animal control issues, litter issues, services for illegal immigrants, Medicaid relief and employee mileage re-imbusement. It was suggested that County Manager, David Dear, be evaluated at that time.

**COMMISSIONER REPORTS**

**CAGO MEETING**

Commissioner Hutchins reported that CAGO is considering funding the purchase of several monitors under the Project LifeSaver Program. These monitors help track patients with dementia who may wonder away from home.

**MISCELLANEOUS REPORTS**

Chairwoman Accor shared that she has been reviewing the goals set at the Commissioner work session and believes that Commissioners are “on course”. She, along with the other Commissioners should continue to look at these goals throughout the year. She also congratulated Commissioner Hawkins on his appointment to the Cleveland Community College Board of Trustees.

**RECESS TO RECONVENE**

There being no further business to come before the Board at this time, Jo Boggs made a motion, seconded by Eddie Holbrook to recess to reconvene the meeting to ***Tuesday, August 7, 2007 at 3:00 p.m.*** in this Commission Chamber.

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*Mary S. Accor, Chairwoman  
Cleveland County Board of Commissioners*

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*Kerri Melton Clerk  
Cleveland County Board of Commissioners*