

CLEVELAND COUNTY BOARD OF COMMISSIONERS

December 2, 2008

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: Jo Boggs, Chairwoman
Eddie Holbrook, Vice-Chairman
Mary S. Accor, Commissioner
Ronald J. Hawkins, Commissioner
Johnny Hutchins, Commissioner
David C. Dear, County Manager
Robert Yelton, County Attorney
Kerri Melton, County Clerk
April Crotts, Deputy Clerk
Eddie Bailes, Assistant County Manager
Chris Green, Tax Administrator
Bill McCarter, Planning Director
Chris Crepps, Finance Director
Alexis Pearson, Human Resources Director
David Allen, *Shelby Star*
Other individual names on file in the Clerk's Office

CALL TO ORDER

Chairwoman Jo Boggs called the meeting to order and led the audience in the "Pledge of Allegiance" to the flag of the United States of America. Mary Degree, president of the Cleveland County NAACP provided the invocation. The Star Spangled Banner was sung by Ms. Jordan Beaver of Cleveland County.

COUNTY COMMISSIONER: OATH OF OFFICE

The Honorable Larry Wilson, Chief District Court Judge, administered the oath to Mary Accor, Ronald Hawkins and Johnny Hutchins for the office of Cleveland County Commissioner.

NOMINATIONS AND SELECTION OF COMMISSION CHAIR

County Clerk, Kerri Melton opened the floor to accept nominations for Commission Chair.

NOMINATIONS: Ronnie Hawkins nominated Jo Boggs for Chair (*Johnny Hutchins seconded the motion*). Hearing no further nominations, Ronnie Hawkins requested the nominations be closed (*Johnny Hutchins seconded the motion*) and Ms. Melton declared the nominations closed. ***Jo Boggs was elected Chairwoman by a unanimous vote.***

NOMINATIONS AND SELECTION OF COMMISSION VICE-CHAIR

Chairwoman Boggs opened the floor to accept nominations for Commission Vice-Chair.

NOMINATIONS: Eddie Holbrook nominated Johnny Hutchins (*Mary Accor seconded the motion*) for Vice-Chair. Hearing no further nominations, Ronnie Hawkins requested the nominations be closed (*Mary Accor seconded the motion*) and Chairwoman Boggs declared the nominations closed. ***Johnny Hutchins was elected Vice-Chair by a unanimous vote.***

AGENDA ADOPTION

ACTION: Mary Accor made the motion, seconded by Eddie Holbrook, and unanimously adopted by the Board, to *adopt the agenda as presented by the County Clerk with the following changes:*

Item 2) OATH OF OFFICE: REGISTER OF DEEDS: BONNIE REECE (delete)

Items I) & J) Acceptance and Easement for Oak Grove Container Site (consolidate into one item).

CITIZEN RECOGNITION

Mary Davis, Autumn Woods Drive, Kings Mountain explained that they are building a subdivision *Autumn Woods East* near her home. She explained that she has several issues that she would like addressed. She has been in contact with many other agencies regarding these issues but has not had a resolution. She has had several conversations with the Sheriff’s Office and they have been very cooperative. Ms. Davis came before the Board of Commissioners to see if there is anything that they could do to remedy her situation. Ms. Davis noted the following issues:

- A drainage ditch and silt pond have attracted mosquitoes and frogs.
- The people constructing the homes are dumping litter in the rivine.
- A neighbor has a horrible trash problem. Cindy Prewitt, Solid Waste Code Enforcement Officer, has been contacted.
- Kids in the area ride dirt bikes and four-wheelers through yards. The same kids have vandalized yards and have stolen personal property.

Stephen White, Autumn Woods Drive, Kings Mountain has not lived in Autumn Woods long but has already had to “call the law” regarding the situation in the neighborhood. He also feels like nothing seems to be working to correct these problems.

A letter from Vernon Baumrind, Autumn Woods Subdivision developer was read. Mr. Baumrind stated, “I join with you and others in requesting assistance for this problem.”

Chairwoman Boggs noted that the County Manager and the Board will take this situation under advisement with the County Attorney.

CONSENT AGENDA

SHERIFF’S OFFICE: BUDGET AMENDMENTS (BNA #034)

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, 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>
010.440.4.810.41	School Resource Officer/Donations/CC Dare	\$ 1,000.	
010.440.5.790.41	School Resource Officer/Donations/CC Dare		1,000.

Explanation of Revisions: Request approval to budget \$1,000 received from calendar sales promotion (fund raising opportunity) from Law Enforcement Publications which is to be used to purchase DARE educational materials or incentives/rewards for DARE students to recognize their outstanding participation to the program.

SHERIFF'S OFFICE: BUDGET AMENDMENTS (BNA #035)

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, 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/Donat's	\$ 2,000.	
010.441.5.790.00	Sheriff/Donations/Contrib's		2,000.

Explanation of Revisions: Request approval to budget \$2,000 received from calendar sales promotion (fund raising opportunity) from Law Enforcement Publications which is to be used as reward/incentive for Sheriff's Office personnel.

HEALTH DEPARTMENT: BUDGET AMENDMENTS (BNA #036)

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, 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>
012.516.4.350.01/SSIHC-5401	Smart Start/State Gr.-Smart St.	\$ 3,000.	
012.516.5.310.00/SSIHC-5401	Smart Start/Travel.		1,000.
012.516.5.311.00/SSIHC-5401	Smart Start/Educational Materials		2,000.

Explanation of Revisions: Budget additional Smart Start funds for the Access to Health Care Program.

HEALTH DEPARTMENT: BUDGET AMENDMENTS (BNA #037)

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, 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>
012.533.4.350.00/93919-360X	Adult Health/State Govt. Grants	\$ 3,436.	
012.533.5.490.00	Adult Health/Professional Services		3,436.
012.533.4.350.00/93283-310X	Adult Health/State Govt. Grants		12,175.
012.533.5.490.00	Adult Health/Professional Services		12,175.

Explanation of Revisions: Budget state Breast and Cervical Cancer Control Program funds for mammograms, pap smears, and reference lab expenses.

HEALTH DEPARTMENT: BUDGET AMENDMENTS (BNA #038)

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, 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>
012.537.4.350.00/93283-190X	Child Health/State Govt. Grants	\$ 13,000.	
012.537.4.490.00	Child Health/Professional Services		13,000.

Explanation of Revisions: Budget Funds from DHHS- for Enhancing Local Asthma Efforts. Will contract with Alliance for Health to complete project.

HEALTH DEPARTMENT: BUDGET AMENDMENTS (BNA #039)

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, 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>
012.539.4.350.00/93217-592X	Family Planning/State Govt. Grants	\$ 947.	
012.539.5.210.00	Family Planning/Departmental Supplies		2,210.
012.539.4.350.00/01120-601X	Family Planning/State Govt. Grants		1,263.

Explanation of Revisions: Budget Family Planning funds to balance with approved State Budget amount- will purchase furniture for exam rooms.

HEALTH DEPARTMENT: BUDGET AMENDMENTS (BNA #040)

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, 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>
012.540.4.310.00/10557-5403	WIC/Federal Grants	\$ 10,837.	
012.540.4.310.00/10557-5404	WIC/Federal Grants	1,972.	
012.540.5.310.00/10557-5409	WIC/Federal Grants	1,063.	
012.540.5.121.00	WIC/Salaries-Reg.	6,059.	
012.540.5.131.00	WIC/Social Security	376.	
012.540.5.136.00	WIC/Medicare Ins.	88.	
012.540.5.210.00	WIC/Departmental Supplies	372.	
012.540.5.211.00	WIC/Controlled Prop. Exp.	777.	
012.540.5.422.00	WIC/Contracted Labor	6,200.	

Explanation of Revisions: Budget additional WIC funds for salaries/fringe, contracted labor and three breast pumps.

HEALTH DEPARTMENT: BUDGET AMENDMENTS (BNA #041)

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, 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>
012.543.4.410.00/KATEB-8104	Health Dept. Grants/Local & Oth Grants	\$10,000.	
012.543.5.490.00/ODUKE-8104	Health Dept. Grants/Prof. Serv.	10,000.	
012.543.4.350.00/03700-9COD	Health Dept. Grants/State Govt. Grants		\$12,949.
012.543.5.121.00/03700-9COD	Health Dept. Grants/Salary-Reg		29,424.
012.543.5.131.00/03700-9COD	Health Dept. Grants/Social Security		1,825.
012.543.5.132.00/03700-9COD	Health Dept. Grants/Retirement		1,472.
012.543.5.133.00/03700-9COD	Health Dept. Grants/Hosp. Ins.		4,560.
012.543.5.134.00/03700-9COD	Health Dept. Grants/Dental Ins.		156.
012.543.5.135.00/03700-9COD	Health Dept. Grants/Employee 401K		1,472.
012.543.5.136.00/03700-9COD	Health Dept. Grants/Medicare Ins.		426.
012.543.5.213.00/03700-9COD	Health Dept. Grants/Office Supplies	169.	
012.543.5.310.00/03700-9COD	Health Dept. Grants/Travel/Training		474.
012.543.5.311.00/03700-9COD	Health Dept. Grants/Educational Expense		525.
012.543.5.422.00/03700-9COD	Health Dept. Grants/Contracted Labor	29,016.	
012.543.5.581.00/03700-9COD	Health Dept. Grants/Awards/Incentives		1,800.

Explanation of Revision: Do budget amendment to balance county JCPC budget with approved JCPC budget amount.

LEGAL DEPARTMENT: ACCEPTANCE OF PROPERTY AND AUTHORIZATION FOR EASEMENT AT OAK GROVE ROAD CONTAINER SITE

ACTION: Mary Accor made the motion, seconded by Eddie Holbrook, and unanimously adopted by the Board, *to accept property from B & D Enterprises to be used as an additional entrance at the Oak Grove Road Container site (copy of deed found on page _____ of Minute Book 30.)*

County Manager David Dear stated that an easement was included in the deed of sale.

Chairwoman Jo Boggs thanked Mr. Tom Brooks for his gift to Cleveland County.

APPROVAL OF MINUTES

There being no corrections, additions or deletions to the minutes of *November 4, 2008*, motion was made by Mary Accor, seconded by Eddie Holbrook and unanimously adopted by the Board, *to approve the minutes as written.*

REGULAR AGENDA

FRIENDS OF THE LIBRARY

Renee Ybarra, President of Friends of the Library shared the accomplishments of the Cleveland Memorial Library and the services that they provide including a book mobile that makes over 100 stops per month. Ms. Ybarra explained that she was not there to ask Commissioners for money. However, she stated, the Friends of the Library would love to see Commissioners offer additional support by possibly allowing the Friends to use the county email system, allowing county employees to assist with book sales or drafting a resolution in support of a grant. Commissioner Accor thanked Ms. Ybarra for attending and asked her to submit these ideas to Carol Wilson, Library Director who will forward them to Commissioners. Commissioner Accor also sits on the Library Board and noted that they have also come up with ways Commissioners could support the library without additional funding.

TAX FORECLOSURE PROPERTY SALE GUIDELINES

Chris Green, Tax Administrator presented Commissioners with a document outlining guidelines for sale of county owned Tax Foreclosure properties. The object is to clarify the sale process for potential bidders and county personnel. Mr. Green highlighted what he felt were important items in the guidelines including:

- Property will be sold by a sealed bid process.
- A deposit of 5% or \$150 (whichever is greater) is to be included with the initial bid.
- Minimum bid must be county investment or 50% of tax value (whichever is greater.)
- Commissioners can withdraw the property or reject a bid at any time.
- Property is sold as is.

In keeping with the philosophy of getting these properties back on the county tax record, Mr. Green recommended approval of the guidelines.

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to approve the Tax Foreclosure Property Guidelines as presented by Tax Administrator (copy found on page _____ of Minute Book 30.)*

PLANNING DEPARTMENT: CODE TEXT AMENDMENT – LAKE HOUSER, INC. (Case #08-14)

Mr. McCarter presented a code amendment to Commissioners. Lake Houser, Inc. presented a petition to amend Section 12-124 Table of Permitted Uses. Mr. Houser would like to allow “ATV and motocross racing” in the Residential (R) zoning district as a Conditional Use. Lake Houser, Inc. is a campground and recreational business developed around a man-made lake south of Boiling Springs. In 1996, the campground was expanded to allow group activities in an area along the Broad River. In 2007, a new corporation, Lake Houser Adventures, was formed to develop and manage an ATV park on this property. The Houser’s have requested to use these trails for a motocross racing events. Currently, motocross is considered a spectator sport under “Racetrack”, and permitted only in the industrial zoning

districts. Therefore, the request is to allow ATV and motocross events in the Residential (R) zoning district as a Conditional Use. He also reviewed the following recommendations from the Planning Board and the Isothermal Planning & Development consultant:

Isothermal Planning- DENY– I have real reservations about allowing this type of use in the (R) Residential District. The applicant was well advised about asking for the amendment to be a conditional use, because if it were allowed, this should be the only way to allow it. However, residential districts are primarily created for residential uses, not uses that might create obnoxious noise, dust, light issues, crowd and traffic congestion, and other issues that might adversely affect nearby residences. Also, if amended, this conditional use would have to be considered in any (R) Residential District in the County if requested. Based upon this, I would deny the proposal.

Planning Board – TABLE- In accordance with Section 12-322 of the County Code, the Planning Board voted unanimously to request that the Board of Commissioners delay final action on this text amendment until after their next meeting on December 9. This additional time will allow staff to research similar facilities in other zoned counties, and provide a list of minimum standards that would need to be met prior to requesting a Conditional Use Permit from the Board of Adjustment for this proposed use.

Comments

Residential (R) is our largest zoning district, and the Planning Board expressed concern about allowing motocross and ATV racing events throughout this extensive area. Therefore, the Board suggested developing specific standards such as a minimum separation from churches, hours of operation, duration and frequency of these events, minimum land area, sound buffers, etc. They also requested a review from the County Attorney, and any suggestion for standards to mitigate recent nuisance complaints concerning noise from racing events.

These new standards would require an amendment to Article IX. Development Standards, and may require additional advertising to amend a section of the code not identified in the current legal ad.

Conditional District zoning was also discussed, but found not to be an option in this case because racing is not permitted by right in any of our zoning districts.

Chairwoman Jo Boggs opened the public hearing at 6:55. (Notice of this hearing was accomplished in accordance with NCGS 153A-343, with legal ads published in the Star on November 12 and November 19, 2008.)

Guy Hutchins, RiverMist Sanctuary expressed concern over the proposed code amendment. Mr. Hutchins owns 115 acres adjacent to Broad River. He has been working for 20 year trying to protect the environment by forestation and the creation of a wildlife sanctuary. Mr. Hutchins is creating a birding trail. There are only a handful of birding trails in the United States. This birding trail will attract a number of tourists to Cleveland County. Allowing this code amendment will destroy his plans for a “sanctuary” due to noise and pollution.

Randy Ward, 217 Hicks Hill Rd, reminded Commissioners of the problems with the racetrack in Lawndale calling the approval of this code text amendment “ludicrous”.

Victoria Hutchins, RiverMist echoed the thoughts of her husband adding that RiverMist is host to meditation classes, weddings and is also offered to Hospice where Ms. Hutchins is a Chaplain. Ms. Hutchins concern was that all of these services could not be provided with all the noise of ATV’s.

Miles Bostic, owner of Broad River Outfitters voiced concern that the ATV’s that travel along Broad River are already causing damage to the riverbanks.

Roger Chipman, 1165 Steel Bridge Road raises Tennessee Walking horses on his property. The noise of the ATV's scares the horses. "We can't ride our horses on our own property." He said that there is a lot of ATV activity already along the Duke Power easement behind his house which has caused destruction and has torn up the terrain along the river.

Kenneth Houser, petitioner, Lake Houser, Inc., noted that, this was not the original intention of Lake Houser, Inc. stating that, "What we had planned got bigger than what we thought." All riders that are allowed on the trail are told the boundaries. He recommended Commissioners approve the code text amendment. He shared that his family saw a need for a place for people to participate in family entertainment. He also explained that this venture does not make a lot of money, it is "a way of paying the taxes on the land."

Sarah Queen, Ballpark Road, Lawndale, was concerned with the noise of ATV and motocross racing sharing that, several months ago, her Mom broke her hip and arm. She was only 175 feet away from Ms. Queen, however, she could not hear her calling for help due to the noise from Thunder Valley Speedway.

Vickie Lutz, 116 Cline Drive, Lawndale, also spoke regarding noise. "From March-November, we cannot entertain at our house due to the noise from Thunder Valley Speedway, I urge you to vote No!"

Hearing no additional comments, Chairwoman Boggs closed the public hearing at 7:10 p.m.

Commissioner Hutchins discussed the possibility of tabling the vote per request from the Planning Board. Commissioner Hawkins stated that he is against the text amendment change and doesn't see any reason to table it.

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to deny the code text amendment.*

COMMISSIONER REPORTS

Eddie Holbrook informed the public that Commissioners held a work session to address unemployment in the county. He explained that Commissioners wanted to be proactive in addressing this. "Citizens need to know that we care and understand what they are going through." At the work session, Commissioners chose to partner with Cleveland Community College by supporting a workforce career planning center at Cleveland Community College. This would be a place where displaced workers could go for immediate help. The purpose of the partnership is to help those workers understand what skills they actually have and give them the skills to present themselves to future employers. A database will be developed to show the workforce in Cleveland County. This will be a valuable tool in economic development recruitment.

Mary Accor felt like the work session was productive stating that putting citizens back to work is a great way of showing them that we are sensitive to their needs.

Johnny Hutchins said that the career center will help the unemployed with resume writing, interviewing skills, how to dress for success and how to promote the skills that they have. Commissioner Hutchins also asked for suggestions on how to help small business by possibly offering incentive packages.

Chairwoman Jo Boggs thanked Commissioners for giving her the opportunity to serve as chair for the upcoming year. She also agreed that the work session was very productive. She informed the citizens that Commissioner Accor will be serving as acting president of the North Carolina Association of County Commissioners to fill the unexpired term of Bill Kopp and will be sworn in as president at the next Annual Meeting.

ADJOURN

There being no further business to come before the Board at this time, Ronnie Hawkins made the motion, seconded by Johnny Hutchins, and unanimously adopted by the Board, ***to adjourn the meeting.***

The next regular scheduled meeting will be held on Tuesday, December 16th, in the Commission Chamber.

*Jo Boggs, Chairwoman
Cleveland County Board of Commissioners*

*Kerri Melton, Clerk
Cleveland County Board of Commissioners*