

CLEVELAND COUNTY BOARD OF COMMISSIONERS

November 3, 2009

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
Johnny Hutchins, Vice-Chairman
Mary S. Accor, Commissioner
Ronald J. Hawkins, Commissioner (arrive at 6:10 p.m.)
Eddie Holbrook, 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 Resource Director
Danielle Anzelone, Cleveland Headline News
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. Commissioner Eddie Holbrook, provided the invocation for the meeting.

AGENDA ADOPTION

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

CONSENT AGENDA

APPROVAL OF MINUTES

ACTION: There being no other corrections, additions or deletions to the minutes of *October 6, 2009 and October 20, 2009*, motion was made by Mary Accor, seconded by Ronnie Hawkins, and unanimously adopted by the Board, to *approve the minutes as written.*

SHERIFF'S OFFICE: BUDGET AMENDMENT (BNA #021)

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, to *approve the following budget amendment:*

<u>Account Number/Project Code</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
010.438.4.310.00/16738-P438	Law Enforce Grants/Fed Govt. Grants	\$27,261.	
010.438.5.210.00/16738-P438	Law Enforce Grants/Dept. Supply	16,000.	
010.438.5.211.00/16738-P438	Law Enforce Grants/Controlled Prop. Exp.	11,261.	

Explanation of Revisions: Request approval to budget Edward Byrne Memorial Justice Assistance Grant (JAG) funding that the Sheriff's Office is sharing with the Shelby and Kings Mountain Police Departments. The County's share of the 2009 grant is \$27,261 and was approved to purchase ammunition for the dept. and eight AR-15 rifles/sights @ \$1,407 each.

SOCIAL SERVICES: BUDGET AMENDMENT (BNA #022)

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to approve the following budget amendment:*

<u>Account Number/Project Code</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
011.508.4.310.00/10561-P089	Income Maintenance/Fed Gov Grants	\$54,668.	
011.508.5.422.00	Income Maintenance/Contracted Labor		54,668.

Explanation of Revisions: Budget amendment necessary to accept federal stimulus monies for the Food and Nutritional Services Program FY 2009/2010. One of the stipulations requires the money to be used to help with the increased demand in services due to the economy. Therefore the money will be used to cover a temp worker to help administer the program.

LEGAL DEPARTMENT: BUDGET AMENDMENT (BNA #023)

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to approve the following budget amendment:*

<u>Account Number</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
010.416.5.971.00	Legal/CO Foreclosure Prop	\$3,463.	
010.410.4.991.00	General/FD Bal Appropriated		3,463.

Explanation of Revisions: To budget for the purchase of parcel #18641. Foreclosed property purchase.

HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #024)

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to approve the following budget amendment:*

<u>Account Number</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
012.535.4.350.00	Health Promotion/St. Govt. Grants	\$2,360.	
012.535.5.311.00	Health Promotion/Education Expense	2,360.	
012.535.4.350.00	Health Promotion/St. Govt. Grants	8,696.	
012.535.5.420.00	Health Promotion/Contracted Services	8,696.	

Explanation of Revisions: 1. Budget DHHS funds to promote smoke free restaurant and bar law. 2. Budget Eat Smart Move More funds to promote physical activity in the City of Kings Mountain and at West Elementary School. Will contract with Alliance for Health to coordinate program.

HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #025)

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to approve the following budget amendment:*

<u>Account Number</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
012.539.4.350.00/93994-5151	Family Planning/State Govt. Grants	\$14,132.	
012.539.5.230.01	Family Planning/Prescription Drugs		14,132.

Explanation of Revisions: Budget Family Planning Out-of-Wedlock funds for purchase of prescription drugs.

HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #026)

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to approve the following budget amendment:*

<u>Account Number/Project Code</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
012.542.4.810.00	Rabies Control/Donations/Contributions	\$ 300.	
012.542.5.790.00	Rabies Control/Donations/Contributions		300.

Explanation of Revisions: Budget donations to Cleveland County Animal Shelter for operating expenses.

LANDFILL: BUDGET AMENDMENT (BNA #027)

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to approve the following budget amendment:*

<u>Account Number/Project Code</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
012.548.4.540.00	CODAP/Contracted Revenue	\$5,000.	
012.548.5.311.00	CODAP/Education Expense	2,000.	
012.548.5.370.00	CODAP/Advertising Promotions	1,000.	
012.548.5.581.00	CODAP/Awards/Incentives	2,000.	

Explanation of Revisions: Budget increase in funding from Pathways for educational materials and meals for Substance Abuse Coalition.

HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #028)

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to approve the following budget amendment:*

<u>Account Number/Project Code</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
012.516.4.350.01/SSIHC-5401	Smart Start/St. Gov't Grants-Sm St		\$ 7,338.
012.516.5.121.00/SSIHC-5401	Smart Start/Salaries-Regular		7,338.
012.516.4.350.01/SSCCC-5106	Smart Start/St. Gov't Grants-Sm St.		40,790.
012.516.5.121.00/SSCCC-5106	Smart Start/Salaries-Regular		25,221.
012.516.5.131.00/SSCCC-5106	Smart Start/Social Security		1,563.
012.516.5.132.00/SSCCC-5106	Smart Start/Retirement		1,233.
012.516.5.133.00/SSCCC-5106	Smart Start/Hospital Ins.		2,496.
012.516.5.134.00/SSCCC-5106	Smart Start/Dental Ins.		84.
012.516.5.135.00/SSCCC-5106	Smart Start/401K		1,261.
012.516.5.136.00/SSCCC-5106	Smart Start/Medicare Ins.		252.
012.516.5.310.00/SSCCC-5106	Smart Start/Travel		194.
012.516.5.370.00/SSCCC-5106	Smart Start/Advertising/Promotions		2,300.
012.516.5.490.00/SSCCC-5106	Smart Start/Professional Services		4,386.
012.516.5.581.00/SSCCC-5106	Smart Start/Awards/Incentives		1,800.

Explanation of Revisions: Decrease Smart Start funds due to budget cuts.

HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #029)

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to approve the following budget amendment:*

<u>Account Number/Project Code</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
012.544.5.350.01/SSDEN-5407	Dental/St. Gov't Grants-Sm St		\$7,100.
012.544.5.230.00/	Dental/Medical Supplies		7,100.

Explanation of Revisions: Decrease Smart Start funds due to budget cuts.

EMERGENCY MEDICAL SERVICES: AMBULANCE & RESCUE FRANCHISE CONTRACTS

County Manager David Dear presented Ambulance and Rescue Squad Franchise Contracts for review. He noted that all contracts are for one year and there have been no changes to the contracts since last approved.

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to adopt the franchise agreements for Boiling Springs Rescue Squad, Grover Rescue Squad, Kings Mountain Rescue Squad, Shelby Rescue Squad and Upper Cleveland Rescue Squad. (copies found on Pages _____ of Minute Book 31.)*

PUBLIC HEARING

PLANNING DEPARTMENT ZONING MAP AMENDMENT-DAVID HERNDON (Case #09-07)

Mr. McCarter presented a petition from David Herndon for a large scale zoning map amendment. The petition included rezoning 420 acres along Cleveland Avenue (NC226) from Residential (R) to Restricted Residential (RR). The petitioners also requested to remove the Corridor Protection (CP) overlay district from this area.

He provided background information as follows:

Existing Land Use: Residential single-family homes and one existing business.

Future Land Use: Residential.

Utilities: Public water provided by Cleveland County Sanitary District, no sewer.

Transportation: NC-226 considered a major thoroughfare.

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

Chuck Nance, Planning Consultant, Isothermal Planning and Development Commission: APPROVE

The existing land use is mostly residential, and the future land use is also projected as residential. It is our opinion that the County could rezone these properties from Residential to Restricted Residential and remove the CP Corridor Protection overlay.

David Morrow, Chairman, Cleveland County Planning Board: APPROVE/DENY

The Planning Board separated this case into two zoning issues:
Residential (R) to Restricted Residential (RR) – Approved by vote of 5-2.
Removal of the Corridor Protection District (CP) – Denied by vote of 6-1.

The Board also heard from property owners that did not wish to be included (Brackett & Edmondson). The Board recommends that they be removed from the rezoning.

In 2005, NCGS 153A-341 was amended to require that planning board review include written comments on the consistency of each amendment with the Land Use Plan, and any other relevant plans. The Board must also explain why the action is “reasonable and in the public interest”.

Consistent with the future Land Use Plan

Restricted Residential zoning is consistent with the current land use plan. The Land Use Plan also calls for the removal of the CP overlay district throughout the county, and replaced with commercial nodes at strategic intersections.

Is the amendment reasonable and in the best interest of the public?

It is the desire of the petitioner to protect and enhance the property values in this area through more restrictive zoning.

Mr. McCarter noted that the Brackett Family and the Edmonson Family asked that their names be removed from the petition. Removal of these two properties would add up to approximately 50% of the property area. However, the percentage of participation is based on the number of property owners not the area of property. Mr. McCarter explained that the reason for the request to remove the Corridor Protection (CP) overlay district was to deter additional businesses from locating next to a residence.

Chairwoman Jo Boggs opened the public hearing at 6:35. (Notice of this hearing was accomplished in accordance with NCGS 153A-343, with legal ads published in the Star on October 24 and October 31, 2009.)

Jeff Scism, said that he was not notified by the county about the proposed re-zoning. Mr. Scism purchased the property in mid-July. He opposed the rezoning stating, "It is not good for Economic Development and it will hurt land development in the area."

Aaron Brackett, owns approximately 200 acres in this area and is opposed to the rezoning, "We need to keep options open for our children. They may not be able to build a house."

Boyd Edmonson, owns a business at 1134 Cleveland Avenue, spoke in opposition of the rezoning stating, "I am opposed to the change, leave it like it is."

Danny Brackett, spoke in opposition.

Darren Scism, explained that he recently purchased the property with his brother. Several lots were cut and the property value increased. He explained that the purchase of this property was an investment for him and the zoning change may hurt the value of the property.

Freida Lail, spoke in opposition of the project stating that she would like to "keep her option open."

David Herndon, introduced himself as the petitioner. Recently, Mr. Herndon had his property appraised. Due to the economic conditions, property values have decreased over the last year. Mr. Herndon explained that the purpose of this petition is to protect the property values. Mr. Herndon feared that keeping the CP District and allowing for additional businesses in this area would not "fit the mold" for the neighborhood. He also noted that the installation of mobile homes would hurt the property values. Mr. Herndon asked the audience for a show of hands from those in favor of the rezoning. Approximately eight hands were raised.

Seeing no others interested in speaking, Chairwoman Boggs asked Commissioners if they had any questions before she closed the public hearing.

Commissioner Hutchins reiterated that approximately nine property owners would like to be removed from the petition (*Clerks Note: not all of those opposed signed the original petition and several people represented one property*) Mr. McCarter explained that Commissioner could change the size of the rezoning to make it smaller and remove those properties in opposition, but they could not make it larger.

Commissioners discussed the possibility of denying the petition and requesting the property owners to re-petition.

Hearing no additional comments, Chairwoman Boggs closed the public hearing.

ACTION: Mary Accor made a motion to deny the removal of the Corridor Protection Overlay District from this area and to approve the zoning map amendment excluding those properties in opposition of the amendment. The motion died of lack of a second.

ACTION: Ronnie Hawkins made the motion, seconded by Johnny Hutchins and unanimously adopted by the board, *to deny the removal of the Corridor Protection Overlay District and to deny the zoning map amendment. (Commissioner Hawkins suggested that those in favor of the rezoning re-petition the Commissioners)*

REGULAR AGENDA

CLEVELAND COMMUNITY COLLEGE BOARD OF TRUSTEES

Due to the passing of David Banks, Cleveland Community College is requesting that Commissioners appoint one person to fill Mr. Banks unexpired term. Commissioners received letters from Hoyt Bailey and Dr. Steve Thornburg recommending Jim Gold be appointed to this position. Commissioner Hawkins, serving as the School Board representative on the Community College Board of Trustees has worked with Mr. Gold in the past on the Board of Trustees and noted that he has done a great job. He has attended the ethics training and the Board of Trustees training required to serve.

ACTION: Ronnie Hawkins made the motion, seconded by Johnny Hutchins, and unanimously adopted by the Board, *to appoint Jim Gold to fill the unexpired term of the late David Banks to expire June, 2010 with the understanding that Mr. Gold must complete the required Commissioners Board Training. (Clerk's note: Commissioner Accor stated that she would like to abstain from voting. However, under NCGS 153A-44 [Duty to Vote] and Commission policy her failure to vote was recorded as an affirmative vote.)*

ADJOURN

There being no further business to come before the Board at this time, Mary Accor made the motion, seconded Johnny Hutchins, and unanimously adopted by the Board, to adjourn. Next regular scheduled meeting will be held on *Tuesday, November 17, 2009 in the Commission Chamber.*

*Rebecca Jo Powell Boggs, Chairwoman
Cleveland County Board of Commissioners*

*Kerri Melton, Clerk
Cleveland County Board of Commissioners*