

CLEVELAND COUNTY BOARD OF COMMISSIONERS

March 2, 2010

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 Accor, Commissioner
Ronald J. Hawkins, Commissioner
Eddie Holbrook, Commissioner
David C. Dear, County Manager
Bob Yelton, County Attorney
Kerri Melton, County Clerk
April Crotts, Deputy Clerk
Eddie Bailes, Assistant County Manager
Chris Green, Tax Administrator
Debra Blanton, Elections Director
Bill McCarter, Planning Director
David Allen, *The Star*
Danielle Anzelone, Cleveland Headline News
Other individual names on file in the Clerk's Office

CALL TO ORDER

Chairwoman Jo Boggs called the meeting to order. Prior to leading the audience in the Pledge of Allegiance, Commissioner Boggs took a moment to recognize several important people who have recently passed away- Commissioner Hutchins Mom and Commissioner Accor's Dad, Mr. Jack Palmer, Ms. Ezra Bridges and Mr. Travis Kidd who recently lost his life in an accident at the Cleveland County Landfill. She then led the audience in the "Pledge of Allegiance" to the flag of the United States of America. Jason Falls provided the invocation for the meeting.

AGENDA ADOPTION

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

SPECIAL RECOGNITION

Commissioner Hawkins, as a supporter and a volunteer for the Boy Scouts, was presented the Silver Beaver Award. County Attorney Bob Yelton spoke of Commissioner Hawkins service to not only scouting but his service to the community as a whole (*copy found on Page _____ of Minute Book 31*). Commissioners then presented him with a Certificate of Recognition which read as follows:

CERTIFICATE OF RECOGNITION
FROM THE
CLEVELAND COUNTY BOARD OF COMMISSIONERS

PRESENTED TO

COMMISSIONER RONNIE HAWKINS

***IN RECOGNITION OF RECEIPT OF THE SILVER BEAVER AWARD~ A
DISTINGUISHED SERVICE AWARD OF THE BOY SCOUTS OF AMERICA ~***

**THE SILVER BEAVER AWARD IS GIVEN TO THOSE WHO IMPLEMENT THE
SCOUTING PROGRAM AND PERFORM COMMUNITY SERVICE THROUGH
HARD WORK, SELF SACRIFICE, DEDICATION AND MANY YEARS OF
SERVICE ~ FOR SERVING THE BOY SCOUTS OF AMERICA IN SO MANY
DIFFERENT CAPACITIES ~ WE COMMEND YOU**

Presented this the 2nd day of March 2010.

CITIZEN RECOGNITION

No citizens came before the board.

CONSENT AGENDA

APPROVAL OF MINUTES

There being no corrections, additions, or deletions to the Minutes of *February 2, 2010*, motion was made by Mary Accor, seconded by Eddie Holbrook, and unanimously adopted by the Board, to *approve the minutes as written*.

HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #051)

ACTION: Mary Accor made the motion, seconded by Eddie Holbrook, 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>
012.516.4.310.00/QEPCD-8816	Smart Start/Federal Grants	\$1,386.	
012.516.5.213.00/QEPCD-8816	Smart Start/Office Supplies	386.	
012.516.5.310.00/QEPCD-8816	Smart Start/Travel	1,000.	

Explanation of Revisions: Budget additional Connect the Dot funds from UNC-Chapel Hill for operating expenses of Child Health Care Consultant.

BOARD OF ELECTIONS THRU FINANCE: BUDGET AMENDMENT (BNA #052)

ACTION: Mary Accor made the motion, seconded by Eddie Holbrook, 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>
010.418.5.790.00	Board of Elections/Donations-Equip	\$1,799.99	
010.418.4.810.09	Board of Elections	1,799.99	

Explanation of Revisions: To budget for donated Lexmark Printer BOE received from State BOE.

EMS THRU FINANCE: BUDGET AMENDMENT (BNA #053)

ACTION: Mary Accor made the motion, seconded by Eddie Holbrook, 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>
010.446.5.790.09	EMS/Donations-Equip-Gen	\$13,040.	
010.446.4.810.09	EMS/Donations-Equip-Gen	13,040.	

Explanation of Revisions: To budget for donated Rad 57 Handheld Oximeters W/Pediatric Sensor. Qty of 2 rec'd. Cost \$6,520 per unit.

HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #054)

ACTION: Mary Accor made the motion, seconded by Eddie Holbrook, 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>
012.546.4.350.00/93790-6043	Carolina Access/State Govt. Grants	\$35,000.	
012.546.5.490.00/93790-6043	Carolina Access/Professional Svcs.	35,000.	

012.546.4.991.00/02200-5120	Carolina Access/Unspent Prior Yr Rev	9,600.
012.546.5.490.00/02200-5120	Carolina Access/Professional Svcs.	9,600.
012.546.4.660.37/02200-HCHK	Carolina Access/Medicaid	16,495.
012.546.5.121.00/02200-HCHK	Carolina Access/Salaries Reg	9,265.
012.546.5.131.00/02200-HCHK	Carolina Access/Social Security	576.
012.546.5.133.00/02200-HCHK	Carolina Access/Hospital Ins.	1,664.
012.546.5.134.00/02200-HCHK	Carolina Access/Dental Ins.	56.
012.546.5.136.00/02200-HCHK	Carolina Access/Med. Ins.	136.
012.546.5.210.00/02200-HCHK	Carolina Access/Dept. Supplies	267.
012.546.5.211.00/02200-HCHK	Carolina Access/Controlled Prop. Exp.	2,126.
012.546.5.213.00/02200-HCHK	Carolina Access/Office Supplies	1,105.
012.546.5.310.00/02200-HCHK	Carolina Access/Travel	1,000.
012.546.5.322.00/02200-HCHK	Carolina Access/Postage	300.

Explanation of Revisions: 1) Budget ER Diversion Grant funds to enable primary care providers to decrease improper use of emergency department usage. 2) Budget funds for license pharmacist to address pharmaceutical issues for patients with chronic conditions. 3) Establish Processing Asst. III position effective 2/1/10 to do health check tracking. Budget salary/fringe and operating expenses.

HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #055)

ACTION: Mary Accor made the motion, seconded by Eddie Holbrook, 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>
012.543.4.310.00/93283-793X	Grants/State Govt. Grants	\$301,601.	
012.543.5.210.00	Grants/Departmental Supplies	8,630.	
012.543.5.211.00	Grants/Controlled Prop. Exp.	23,251.	
012.543.5.213.00	Grants/Office Supplies	3,000.	
012.543.5.230.00	Grants/Medical Supplies	5,000.	
012.543.5.310.00	Grants/Travel	6,000.	
012.543.5.311.00	Grants/Education Expenses	2,000.	
012.543.5.370.00	Grants/Advertising.	2,000.	
012.543.5.422.00	Grants/Contracted Labor	12,000.	
012.543.5.490.00	Grants/Professional Services.	20,000.	
012.543.5.581.00	Grants/Incentives/Awards	2,000.	
012.543.5.910.00	Grants/CO Equipment	212,635.	
012.543.5.894.00	Grants/Emerg. & Cont.	5,085.	

Explanation of Revisions: Budget HINI Grant funds to prepare for and respond to an influenza pandemic.

SOCIAL SERVICES: BUDGET AMENDMENT (BNA #056)

ACTION: Mary Accor made the motion, seconded by Eddie Holbrook, 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>
011.508.4.310.00/93568-P406	Income Maint./Fed Govt. Grants	\$60,303.95.	
011.508.5.422.00	Income Maint./Contracted Labor	60,303.95.	

Explanation of Revisions: Budget Amendment necessary to accept additional federal LIEAP funds for FY 2009/2010. The current federal approved allocation is more than State Estimates for LIEAP Admin's funding for FY 2009-2010. The additional monies are the result of increased need for services. The increase to 422.00 will cover the temp. workers needed to help administer the program.

WORKERS COMPENSATION: BUDGET AMENDMENT (BNA #058)

ACTION: Mary Accor made the motion, seconded by Eddie Holbrook, 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>
060.650.4.991.00	Workers Comp/Fd. Balance Approp.	\$ 322,000.	
060.650.5.586.00	Workers Comp/Uninsured Settlement	322,000.	

Explanation of Revisions: to budget anticipated reimbursement revenues from insurance company for unforeseen expenditures.

INTERLOCAL AGREEMENT; CITY OF SHELBY/CLEVELAND COUNTY FUEL STATION

County Manager David Dear explained there would be a significant benefit of having a joint fueling for the vehicles of the City of Shelby and Cleveland County. The cost of constructing the facility will be shared at fifty percent (50%) each.

ACTION: Mary Accor made the motion, seconded by Eddie Holbrook, and unanimously adopted by the Board, *to execute the inter-local agreement between the City of Shelby and Cleveland County for the City/County Fueling Station*(copy found on Page _____ of Minute Book 31).

PUBLIC HEARING: CERTIFICATE OF PARTICIPATION- SHELBY MIDDLE SCHOOL (Schedule a public hearing for April 6, 2010)

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

SPECIAL RECOGNITION

ZACH PROCTOR AND SPENCER MARTIN

Commissioners recognized Zach Proctor and Spencer Martin, both of Burns High School, for being named as a Sonic Scholar Athlete of the Week. The Sonic Scholar Athlete of the Week is presented on Fox Charlotte Fox News Got Game. Each winner is given a plaque. An award of \$500 is also given to the school where they attend. Mr. Proctor and Mr. Martin were presented with certificates from the Commissioners. Certificates read as follows:

**CERTIFICATE OF RECOGNITION
FROM THE
CLEVELAND COUNTY BOARD OF COMMISSIONERS**

PRESENTED TO

ZACH PROCTOR

FOR YOUR DETERMINATION IN AND OUT OF THE CLASSROOM ~ FOR SETTING HIGH STANDARDS FOR YOURSELF INCLUDING EARNING A 4.65 GPA ~ FOR BEING A POSITIVE EXAMPLE TO OTHER STUDENTS, TEAMMATES AND COMMUNITY MEMBERS~ FOR BEING CHOSEN AS THE SONIC SCHOLAR ATHLETE OF THE WEEK EARNING A PLAQUE AND \$500 FOR BURNS HIGH SCHOOL ~ FOR MAKING YOUR SCHOOL AND YOUR PARENTS PROUD ~ FOR BEING A LEADER AT SUCH A YOUNG AGE ~ WE COMMEND YOU!

Presented this the 2nd day of March 2010.

**CERTIFICATE OF RECOGNITION
FROM THE
CLEVELAND COUNTY BOARD OF COMMISSIONERS**

PRESENTED TO

SPENCER MARTIN

**FOR YOUR DETERMINATION IN AND OUT OF THE CLASSROOM ~ FOR
SETTING HIGH STANDARDS FOR YOURSELF INCLUDING EARNING A 4.6 GPA ~
FOR BEING A POSITIVE EXAMPLE TO OTHER STUDENTS, TEAMMATES AND
COMMUNITY MEMBERS~ FOR BEING CHOSEN AS THE SONIC SCHOLAR
ATHLETE OF THE WEEK EARNING A PLAQUE AND \$500 FOR BURNS HIGH
SCHOOL ~ FOR MAKING YOUR SCHOOL AND YOUR PARENTS PROUD ~ FOR
BEING A LEADER AT SUCH A YOUNG AGE ~ WE COMMEND YOU!**

FOR BEING A LEADER AT SUCH A YOUNG AGE ~ WE COMMEND YOU!

Presented this the 2nd day of March 2010.

WOMEN IN HISTORY MONTH

Commissioner Accor introduced Ms. Besty Wells, a member of the Cleveland County Commission for Women. Ms. Wells in turn introduced several of her fellow board members who were in attendance. On June 19, 1978, a group of women came together to form what is today known as the Commission for Women. This Commission has been serving Cleveland County for almost thirty-two years. Esther Plummer, one of the original members of the Commission for Women, at 93 years old, still serves on the board. Over the years, the Commission for Women has been instrumental in establishing the Abuse Prevention Council and in 1992, they established the Distinguished Women Award which recognizes women throughout Cleveland County for their service to the community. Commissioner Accor asked that Commissioners adopt a proclamation in honor of Women in History Month.

ACTION: Ronnie Hawkins made the motion, seconded by Eddie Holbrook, and unanimously adopted by the Board to ***adopt the following proclamation;***

Number 01-2010

CELEBRATING WOMEN IN HISTORY MONTH

WHEREAS: American women of every race, class, and ethnic background have made historic contributions to the growth and strength of Cleveland County, the State of North Carolina and our nation in countless recorded and unrecorded ways; and

WHEREAS: over the years, women have continued to work for and to make gains toward equality through their hard work as part of the labor force working in and outside the home; and

WHEREAS: generations of women have expanded their choices of education and career paths, and at the same time have faced the challenges of balancing careers, families and community service; and

WHEREAS, American women have played a unique role throughout the history of the nation by providing the majority of the volunteer labor force of the nation; and

WHEREAS, American women were particularly important in the establishment of early charitable, philanthropic and cultural institutions in our nation; and

WHEREAS: understanding the importance of women in our community, in June 1978, the Cleveland County Board of Commissioners adopted a resolution to establish the Commission for Women; and

WHEREAS: On Friday, February 19th, Cleveland County said goodbye to a 104 year old woman who will be remembered forever in the pages of Cleveland County Women's History, Miss Ezra Bridges served as a public school teacher for forty years, she was sixty years old when she began working to bring the Head Start program to Cleveland County. In 1965, Head Start became a reality, and has been serving the children of Cleveland County since; and

WHEREAS: each year during Women's History Month, we should remember and celebrate women from all walks of life who have shaped this great Nation;

NOW THEREFORE, THE CLEVELAND COUNTY BOARD OF COMMISSIONERS, do hereby proclaim the month of March, 2010, as ***Women in History Month*** in Cleveland County, and urge all citizens to honor the history, accomplishments, and contributions of women in Cleveland County and across the nation.

SIGNED THIS THE 2nd DAY OF MARCH, 2010.

PUBLIC HEARINGS

PLANNING DEPARTMENT: ZONING MAP AMENDMENT – WAYNE WINFIELD (Case #10-05)

Mr. McCarter presented a petition from Wayne Winfield requesting a zoning map amendment for approximately 15 acres along Polkville Road (NC226) from Restricted Residential (RR) to Residential (R). The property is currently vacant and adjoins an existing Residential (R) district.

He provided background information as follows:

Existing Land Use: Vacant

Future Land Use: Commercial

Utilities: Public water provided by Cleveland County Water District.

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

A request from Mr. Winfield to rezone approximately 15 acres along Barbee Road from RR Restricted Residential to R Residential. Existing land use of applicant's property and adjacent property is residential. Future land use is projected as commercial. It is our opinion that Cleveland County could rezone this property from RR Restricted Residential to R Residential. This would be an extension of an existing R Residential district across the street onto his property and would not be considered arbitrary and capricious ("spot zoning").

Planning Board Recommendation: DENY

The Planning Board voted 8-1 to recommend that the rezoning be DENIED.

In 2005, NCGS 153A-341 was amended to require that planning board review include written comments on the consistency of the 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 2015 Land Use Plan

This area was designated as commercial on our future land use map, and the proposed Residential (R) zoning district would not be consistent with our plan.

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

This amendment would be considered a reasonable expansion of an existing Residential zoning district south of Barbee Road.

Surrounding Properties

The Board noted that the property owners requested the Restricted Residential district back in 2000, so the Board should respect the desires of those that have purchased surrounding property in good faith reliance of that development restriction.

Non-Conforming Uses

Vacant.

ACTION: Johnny Hutchins made the motion, seconded by Mary Accor and unanimously adopted by the board, ***to open the public hearing.*** (Notice of this hearing was accomplished in accordance with NCGS 153A-343, with legal ads published in the Star on February 19 and February 26, 2010.)

Cecil Foster 1417 Barbee Road owns the property directly across the street from Mr. Winfield. “There are several properties with modular homes in the area. People move in and out of there and police are there quite often.”

Debra Blanton 1745 Barbee Road owns a strip of land directly to the right of Mr. Winfield’s property. Ms. Blanton read a letter from her daughters regarding the rezoning request which stated rezoning will have a direct impact on property values as well as increase the incidences of crime and vandalism. Ms. Blanton also attended the Planning Board meeting. She explained, “The Planning Board noted in their discussion that this property was never changed to RR. This property has been zoned RR since Cleveland County adopted zoning and it should be kept that way.”

Marilyn Putnam 1413 Barbee Road spoke in opposition of the rezoning. “We bought this property knowing that it was zoned RR. We wanted to live out in the country.”

Charlotte Hardin 1900 Polkville Road spoke in opposition of the rezoning. “We are worried about the rezoning and the possible vandalism that could come along with it. We lived in a neighborhood and moved out in the country to get away from it. We would like to keep it that way.”

Chairwoman Boggs asked if there were any other comments or if Commissioners had questions of anyone in the audience or staff. Hearing no other comments, she called for the public hearing to be closed.

ACTION: Mary Accor made the motion, seconded by Eddie Holbrook and unanimously adopted by the board, *to close the public hearing.*

Chairwoman Boggs called for discussion among Commissioners. Hearing no comments, Chairwoman Boggs called for the vote on the zoning map amendment.

ACTION: Mary Accor made the motion, seconded by Eddie Holbrook and unanimously adopted by the board, *to accept the recommendation of the Planning Board and deny the rezoning request.*

PLANNING DEPARTMENT: ZONING MAP AMENDMENT – TIM BRADSHAW (Case #10-06)

Mr. McCarter presented a petition from Tim Bradshaw requesting a zoning map amendment for the property at 1302 S. Post Road from Residential Manufactured Homes & Parks (RM-CP) to General Business (GB-CP). He provided background information as follows:

Mr. Bradshaw is the owner of the convenience store located on the property. The store is a permitted use in the Corridor Protection district, but he recently installed sweepstakes machines without a zoning permit. Video Gaming machines are allowed only in a General Business district with a Conditional Use Permit from the Board of Adjustment. Mr. Bradshaw must first re-zone the property, and then obtain a Conditional Use permit.

Existing Land Use: Convenience/Gas Store

Future Land Use: Commercial

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

A request from Mr. Bradshaw to rezone property along Post Road from RM-CP Residential Manufactured Homes and Parks Corridor Protection to GB-CP General Business Corridor Protection. Existing land use of applicant's property and surrounding is mixed, and future land use is projected as commercial. It is our opinion that Cleveland County could rezone this property from RM-CP to GB-CP. An existing GB-CP district exists diagonally across NC 226 and this would be an extension of this district. Also, since future growth is projected as commercial, this request would be consistent with comprehensive planning objectives.

Planning Board Recommendation: APPROVE

The Planning Board voted 8-1 to recommend that the rezoning be APPROVED.

In 2005, NCGS 153A-341 was amended to require that planning board review include written comments on the consistency of the 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 2015 Land Use Plan

This area was designated as commercial on our future land use map, and the proposed General Business (GB) zoning district would be consistent with our plan.

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

This amendment would be considered a reasonable expansion of an existing GB zoning district across the road.

Surrounding Properties

Residential surrounds the property, with scattered commercial along NC 180.
No opposition at the Planning Board meeting.

Non-Conforming Uses

The existing convenience store is a permitted use in the CP overlay district.

ACTION: Ronnie Hawkins made the motion, seconded by Mary Accor and unanimously adopted by the board, ***to open the public hearing.*** (Notice of this hearing was accomplished in accordance with NCGS 153A-343, with legal ads published in the Star on February 19 and February 26, 2010.)

Chairwoman Boggs asked if there were any other comments or if Commissioners had any questions of anyone in the audience or staff. Hearing no comments, she called for the public hearing to be closed.

ACTION: Johnny Hutchins made the motion, seconded by Mary Accor and unanimously adopted by the board, ***to close the public hearing.***

Chairwoman Boggs called for discussion among Commissioners. Hearing no comments,
Chairwoman Boggs called for the vote on the zoning map amendment.

ACTION: Ronnie Hawkins made the motion, seconded by Mary Accor and unanimously adopted by the board, ***approve the rezoning as requested.***

Residential Manufactured Homes & Parks (RM-CP) to General Business (GB-CP)

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, Tim Bradshaw presented a petition to amend to the Cleveland County Zoning Map for the property located at 1302 S Post Road from Residential Manufactured Homes & Parks to General Business; and

WHEREAS, the Cleveland County Planning Board found the map amendment to be consistent with the 2015 Land Use Plan; and

WHEREAS, in accordance with NCGS 153A-343, a public hearing was held by the Cleveland County Board of Commissioners on March 2, 2010, and legal notices published on February 19 and February 26, 2010 and a sign posted on February 18, 2010 as required by law; and

WHEREAS, after consideration of comments made at the public hearing, along with the recommendation of the Cleveland County Planning Board,

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 change the zoning classification of parcel(s) 3070 and 3071, from Residential Manufactured Homes & Parks (RM-CP) to General Business (GB-CP) as illustrated on the attached map designated "Case 10-06", and being incorporated herein by reference and made part of this ordinance.

BEGINNING at a point in the center of Post Road (NC 226), thence with the center of said highway, South 10-00 West 115 feet, South 10-00 West 115 feet; thence with property lines, North 78-30 West 230 feet, South 89-20 West 226 feet, North 14-20 East 97 feet, North 14-20 East 97 feet, North 81-04 East 232 feet, South 78-30 East 230 feet to the point of BEGINNING, the same being all of Tracts 1-4 as referenced in Exhibit A of Deed Book 1507 Page 2310.

This Ordinance shall become effective upon adoption and approval.

Adopted this 2nd day of March, 2010 at 6:00 p.m.

PLANNING DEPARTMENT: ZONING MAP AMENDMENT – Larry Lail (Case #10-07)

Mr. McCarter presented a petition from Larry Lail requesting a zoning map amendment for several properties along S. Lafayette Street from Residential (R-CP) to General Business (GB-CP). He provided background information as follows:

Parcel 44623 Larry Lail is the owner of a convenience store. The store is a permitted use in the Corridor Protection district, but he recently installed sweepstakes machines without a zoning permit. Video Gaming machines are allowed only in a General Business district with a Conditional Use Permit from the Board of Adjustment. Mr. Lail must first re-zone the property, and then obtain a Conditional Use permit.

Parcel 5573 Nell Webb has a home on this 4-acre parcel adjoining the store. Re-zoning to General Business would make her home a non-conforming use?

Parcel 5675 Peggy Porter has a home and retail business located on this parcel. The store is a permitted use in the Corridor Protection district. Re-zoning to General Business would make her home a non-conforming use.

Mr. McCarter made note that Parcel #5573 Nell Webb contacted his office and would like to be withdrawn from the rezoning petition. She would not like her property to be considered for rezoning.

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

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

A request from Mr. Lail to rezone property along South Lafayette Street from R-CP Residential Corridor Protection to GB-CP General Business Corridor Protection. Existing land use is mixed but allowable under the Corridor Protection Overlay. Future Land Use is projected to be Residential. This request is different from the previous two requests in that there is no similar zoning district located close by, and the future land use is projected as Residential. We have reservations about granting this request due to the previous facts, and also the adjacent properties that are currently residential that have been included to be rezoned to GB will become a non-conforming use, which could prohibit expansion or enlargement. Therefore, we recommend that Cleveland County not rezone this property.

Planning Board Recommendation:

The Planning Board voted 4-4, with one member abstaining.

In 2005, NCGS 153A-341 was amended to require that planning board review include written comments on the consistency of the 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 2015 Land Use Plan

This area was designated as residential on our future land use map, and the proposed General Business (GB) zoning district would not be consistent with our plan.

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

Board members commented that the existing store needed the ability to expand to new uses, and noted support from adjoining property owners on the petition.

Surrounding Properties

Residential surrounds the property.

No opposition at the Planning Board meeting.

Non-Conforming Uses

The existing convenience store is a permitted use in the CP overlay district.

Mr. McCarter reminded Commissioners that the Planning Board is purely an advisory board. He did not list Approve/Deny on the recommendation due to the fact that the vote was split 4 to 4 with one member abstaining. Prior to opening the public hearing Commissioner Hawkins asked how, if we approve the rezoning, the non-conforming use of the houses would affect the property. Mr. McCarter explained that should the property become a non-conforming use, the property could not be expanded but did not see that as an issue.

ACTION: Mary Accor made the motion, seconded by Johnny Hutchins and unanimously adopted by the board, ***to open the public hearing.*** (Notice of this hearing was accomplished in accordance with NCGS 153A-343, with legal ads published in the Star on February 19 and February 26, 2010.)

Larry Lail 124 Trent McSwain Road as the petitioner, Mr. Lail spoke in favor of the rezoning. “I don’t understand why Isothermal Planning recommended to deny the rezoning. We are only 1,300 feet from the “red dot”.” (*Clerks Note: The red dot Mr. Lail was referring to depicts the Commercial Node on the Land Use Plan.*)

Chairwoman Boggs asked if there were any other comments or if Commissioners had any questions of anyone in the audience or staff. Hearing no other comments, she called for the public hearing to be closed.

ACTION: Johnny Hutchins made the motion, seconded by Mary Accor and unanimously adopted by the board, ***to close the public hearing.***

Chairwoman Boggs called for discussion among Commissioners.

Commissioner Hutchins commented that, by looking at the rezoning application, apparently everyone in the area would like to see the rezoning approved. “I don’t see any opposition to the rezoning request.”

Hearing no other comments, Chairwoman Boggs called for the vote on the zoning map amendment.

ACTION: Johnny Hutchins made the motion and seconded by Mary Accor to *approve the rezoning as requested*. Before the vote was called for, Commissioner Hutchins amended his motion.

ACTION: Johnny Hutchins made the motion, seconded by Mary Accor and unanimously adopted by the board, *approve the rezoning as requested including the removal of Ms. Webb's property (Parcel #5573)*.

**ORDINANCE AMENDING THE CLEVELAND COUNTY ZONING MAP
2534 & 2603 S Lafayette Street
Residential (R-CP) to General Business (GB-CP)**

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, Larry Lail presented a petition to amend to the Cleveland County Zoning Map for the property located at 2534 and 2603 S Lafayette Street from Residential to General Business; and

WHEREAS, the Cleveland County Planning Board found the map amendment would not be consistent with the 2015 Land Use Plan; and

WHEREAS, the Cleveland County Planning Board found the map amendment to be reasonable and in the best interest of the public to allow the store grow and expand, and noted the support from adjoining property owners on the petition; and

WHEREAS, in accordance with NCGS 153A-343, a public hearing was held by the Cleveland County Board of Commissioners on March 2, 2010, and legal notices published on February 19 and February 26, 2010 and a sign posted on February 18, 2010 as required by law; and

WHEREAS, after consideration of comments made at the public hearing, along with the recommendation of the Cleveland County Planning Board,

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 change the zoning classification of parcel(s) 44623, 5675 and 5681, from Residential (R-CP) to General Business (GB-CP) as illustrated on the attached map designated "Case 10-07", and being incorporated herein by reference and made part of this ordinance.

PARCEL 44623: BEGINNING at a point in the center of Lafayette Street (NC 18), thence following property lines, South 79-52-07 West 251.06 feet, North 13-59-55 West 131.95 feet, North 69-00-52 East 263.16 feet, to a point in the highway; thence with the highway, South 10-36-26 East 181.21 feet to the point of BEGINNING, the same being described by deed in Book 1338 Page 170.

PARCEL 5675: BEGINNING at a point in the center of S Lafayette Street, thence with the highway North 01-57 West 247.53 feet; thence with property lines, North 88-03 East 154.76 feet, South 70-19 East 397.72 feet, South 01-19 West 77.44 feet, South 85-21 West 520.74 feet to the point of BEGINNING, the same property described as Tract 3 in Deed Book 1503 Page 1496.

PARCEL 5684: BEGINNING at a point in the center of S Lafayette Street, thence with said highway North 02-13-47 East 211.40 feet; thence with property lines North 84-36-43 East 520.74 feet, South 00-36-05 West 210.50 feet, South 84-35-31 West 526.80 feet to the point of BEGINNING, the same property described as Tract 4 in Deed Book 1503 Page 1496

This Ordinance shall become effective upon adoption and approval.

Adopted this 2nd day of March, 2010 at 6:00 p.m.

REGULAR AGENDA

PLANNING DEPARTMENT: MINIMUM HOUSING CODE ENFORCEMENT – JOHN C. ROBERTS HEIRS (322 BRIDGES CIRCLE)

A public hearing was held on May 31, 2005 regarding this case and the owner was allowed 90-days to demolish the dwelling. Planning Director Bill McCarter explained, in accordance with Section 3.5-45(b), the property owner was notified of the order to comply with the Order of the Code Enforcement Officer to demolish the abandoned mobile homes at 322 Bridges Circle. The order expired

September 14, 2005. During the last conversation with Mr. Wilson (contact for John C. Robert Heirs), Mr. Wilson stated that he would be in touch with Waco for removal. Commissioners expressed concern with the lapse of time since the order was issued. Mr. McCarter explained that he made last contact with Mr. Wilson on January 19, 2010.

ACTION: Ronnie Hawkins made the motion, seconded by Mary Accor, and unanimously adopted by the Board, *to approve the following ordinance authorizing the demolition of the dwelling.*

CLEVELAND COUNTY
NORTH CAROLINA

AN ORDINANCE AUTHORIZING THE CODE ENFORCEMENT OFFICER TO DEMOLISH ABANDONED MOBILE HOMES AT 233 BRIDGES CIRCLE

WHEREAS, pursuant to the provisions of Chapter 160A, Article 19, Part 6 of the North Carolina General Statutes, the abandoned mobile homes located at 233 Bridges Circle, 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 mobile homes; 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 abandoned mobile homes 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 mobile homes located at 233 Bridges Circle now or formerly owned by John C. Roberts Heirs, 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 2nd day of March 2010 by the Cleveland County Board of Commissioners in open session.

PLANNING DEPARTMENT: MINIMUM HOUSING CODE ENFORCEMENT – GARY DAVID ALLEN (MOUNTAIN VIEW DRIVE)

A public hearing was held on May 31, 2006 regarding this case and the owner was allowed 90-days to demolish the dwelling. Planning Director Bill McCarter explained, in accordance with Section 3.5-45(b), the property owner was notified of the order to comply with the Order of the Code Enforcement Officer to demolish the abandoned mobile homes at Mountain View Drive. The order expired November 15, 2006. In September of 2009, the property was inspected by the Cleveland County Building Inspection Department and found in violation of the Code. In January 2010, the property was revisited and there had been no changes made. A letter was sent to the property owner on January 25, 2010 informing them of the meeting.

ACTION: Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to approve the following ordinance authorizing the demolition of the dwellings.*

CLEVELAND COUNTY
NORTH CAROLINA

AN ORDINANCE AUTHORIZING THE CODE ENFORCEMENT OFFICER TO DEMOLISH ABANDONED MOBILE HOMES ON MOUNTAIN VIEW DRIVE

WHEREAS, pursuant to the provisions of Chapter 160A, Article 19, Part 6 of the North Carolina General Statutes, the dwelling located on Parcel 33336 Mountain View Drive, Cleveland County, North Carolina has 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 Cleveland 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 mobile homes; 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 mobile homes 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 mobile homes located on Parcel 33336-Mountain View Drive now or formerly owned by Gary David Allen, 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 2nd day of March 2010 by the Cleveland County Board of Commissioners in open session.

PLANNING DEPARTMENT: MINIMUM HOUSING CODE ENFORCEMENT – LARRY N. ALLEN (4223 MOUNTAIN VIEW DRIVE)

A public hearing was held on January 31, 2006 regarding this case and the owner was allowed 90-days to demolish the dwelling. Planning Director Bill McCarter explained, in accordance with Section 3.5-45(b), the property owner was notified of the order to comply with the Order of the Code Enforcement Officer to demolish the abandoned mobile homes at Mountain View Drive. The order expired May 1, 2006. Commissioners gave Mr. Allen a chance to speak. He explained that he has cleaned up the property since the last time it was visited. There are only two mobile homes currently left on the property. Mr. Allen asked Commissioners to give him a chance to clean up the trailers and try and get them up to code. Commissioner Hutchins suggested that this action be tabled until the first meeting in April to give Mr. Allen the opportunity to make improvements on the property. Several Commissioners felt as though they would feel more comfortable giving Mr. Allen additional time before demolishing the dwellings.

ACTION: Johnny Hutchins made the motion, seconded by Mary, and unanimously adopted by the Board, *to table action on the Minimum Housing Code Violation until the April 6, 2010 regular County Commissioners meeting.*

COMMISSIONER REPORTS

Eddie Holbrook- A Golden Leaf Review Committee meeting will be held the week of March 15th as well as a visit from the American Legion World Series National Office regarding selection of the three-year bid for the American Legion World Series.

Mary Accor- thanked Commissioners for the memorial for her father. She attended her first Fair Board meeting where they discussed infrastructure needs. The Commission for Women will take responsibility for the Ms. Cleveland County Fair.

Johnny Hutchins- attended the Lake Norman RPO meeting where they discussed alternatives for highway construction funding.

ADJOURN

There being no further business to come before the Board at this time, Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to adjourn the meeting*. The next regular meeting of the Commission is scheduled for *Tuesday, March 16, 2010 at 6:00 p.m.* in this Commission Chamber.

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

*Kerri Melton, Clerk
Cleveland County Board of Commissioners*