

**CLEVELAND COUNTY BOARD OF COMMISSIONERS**

**April 6, 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 S. Accor, Commissioner  
Ronald J. Hawkins, Commissioner  
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  
Danielle Anzelone, Cleveland Headline News  
David Allen, The 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. Assistant County Manager Eddie Bailes, provided the invocation for the meeting.

**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.*

**CONSENT AGENDA**

**APPROVAL OF MINUTES**

There being no corrections, additions, or deletions to the Minutes of *March 2, 2010 and March 16, 2010*, motion was made by Ronnie Hawkins, seconded by Mary Accor, and unanimously adopted by the Board, to *approve the minutes as written.*

**HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #065)**

**ACTION:** Ronnie Hawkins made the motion, seconded by Mary Accor, 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>
012.530.4.810.00	General/Donations/Contributions	\$ 150.	
012.530.5.790.00	General/Donations/Contributions		150.

Explanation of Revisions: Budget donation from Lions Club of Shelby for eye exams.

**HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #066)**

**ACTION:** Ronnie Hawkins made the motion, seconded by Mary Accor, 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>
012.539.4.350.00/93217-592X	Family Planning/State Govt. Grants	\$10,015.	
012.539.5.230.01	Family Planning/Prescription Drugs	10,015.	

Explanation of Revisions: Budget Family Planning performance based Title X funds for prescription drugs.

**HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #067)**

**ACTION:** Ronnie Hawkins made the motion, seconded by Mary Accor, 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>
012.541.4.350.00/01210-4751	Env. Health/ State Govt. Grants	\$ 439.	
012.541.5.241.00	Env. Health/Motor Fuels	317.	
012.541.5.310.00	Env. Health/Travel/Training	122.	

Explanation of Revisions: Budget funds received for reimbursement of Environmental Health Training.

**CLEVELAND COUNTY SCHOOLS: BUDGET AMENDMENT (BNA #068)**

**ACTION:** Ronnie Hawkins made the motion, seconded by Mary Accor, 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>
021.107.4.358.00	PSBCF-Educ Lottery/Pub Sch Bldg Cap Fds	\$615,000.	
021.107.5.890.00	PSBCF-Educ Lottery/Transfer to Primary	615,000.	
010.600.4.980.03	Cleve Co Schools/Transfer from Lottery	615,000.	
010.600.5.523.01	Cleve Co Schools/Spec Cap Allocation	615,000.	

Explanation of Revisions: To budget funds for various small capital improvements to existing facilities.

**HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #069)**

**ACTION:** Ronnie Hawkins made the motion, seconded by Mary Accor, 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>
012.533.4.350.00/93919-360X	Adult Health/State Gov't Grants	\$ 7,175.	
012.533.5.490.00	Adult Health/Professional Services	7,175.	

Explanation of Revisions: To budget state Breast and Cervical Cancer Control Program funds for professional services.

**HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #070)**

**ACTION:** Ronnie Hawkins made the motion, seconded by Mary Accor, 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>
012.539.4.350.00/93217-592X	Family Planning/State Gov't Grants	\$ 5,548.	
012.539.5.513.00	Family Planning/Hospital & Drs. Fees	5,548.	

Explanation of Revisions: Budget Family Planning performance based Title X funds for doctor fees.

**HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #071)**

**ACTION:** Ronnie Hawkins made the motion, seconded by Mary Accor, 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>
012.540.4.310.00/10557-570X	WIC/Federal Grants	\$ 6,414.	
012.540.5.310.00	WIC/Travel	100.	
012.540.5.321.00	WIC/Telecommunications	75.	
012.540.5.422.00	WIC/Contracted Labor	6,239.	

*Explanation of Revisions: Budget additional Breast Feeding Peer Counselor Program Funds for BRF Peer Counselor, cell phone and travel.*

**HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #072)**

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

<i>Account Number</i>	<i>Department/Account Name</i>	<i>Increase</i>	<i>Decrease</i>
012.542.4.810.00	Rabies Control/Donations/Contributions	\$ 367.	
012.542.5.790.00	Rabies Control/Donations/Contributions		367.

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

**HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #073)**

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

<i>Account Number</i>	<i>Department/Account Name</i>	<i>Increase</i>	<i>Decrease</i>
012.544.4.350.01/SSDEN-5407	Dental/State Gov't Gr-Smart St.	\$ 7,100.	
012.544.5.230.00	Dental/Medine & Supplies		7,100.

*Explanation of Revisions: Budget Smart Start funds for dental supplies.*

**SOCIAL SERVICES: BUDGET AMENDMENT (BNA #074)**

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

<i>Account Number</i>	<i>Department/Account Name</i>	<i>Increase</i>	<i>Decrease</i>
011.507.4.350.01/93996-2200	Outside Poor/State Gov't Gr-SS	\$ 20,218.	
011.507.5.420.00	Outside Poor/Smart Start Daycare		20,218.

*Explanation of Revisions: Budget Amendment necessary to accept additional Smart Start Funds for Direct Daycare Services for fiscal year 2009/2010.*

**RESOLUTION HONORING DENESE R. STALLINGS**

Denese Stallings will retire after twenty-three years as the Cleveland County Health Director.

Commissioner Hawkins asked that a resolution be adopted recognizing and honoring Ms. Stallings. The resolution as well as a shadow box will be presented to her at her retirement party on April 29, 2010.

**ACTION:** Ronnie Hawkins made the motion, seconded by Mary Accor, and unanimously adopted by the Board, *to adopt the following resolution recognizing and honoring retiring Health Director*

*Denese Stallings:*

**Number 07-2010**

**TO RECOGNIZE AND HONOR DENESE R. STALLINGS**

**WHEREAS,** Denese R. Stallings began her public health career as a public health nurse in Catawba County in February 1978 ; and

**WHEREAS,** Denese Stallings has served as the Cleveland County Health Director for over twenty-three years, from August 19, 1986 to April 30, 2010; and

**WHEREAS,** during Ms. Stallings' service as Cleveland County Health Director, she was successful in establishing school-based health centers in all four county high schools and middle schools; and

**WHEREAS,** in collaboration with Cleveland Regional Medical Center, Ms. Stallings and Dr. T.R. Harris were successful in developing the CLECO Primary Care Network, founded in 1991, which offers access to health care for the indigent; and

**WHEREAS**, public facilities including Cleveland County Schools, Cleveland County Courts, all local government buildings and Cleveland Regional Medical Center became smoke-free under Ms. Stallings' direction; and

**WHEREAS**, Ms. Stallings implemented a litter prevention program that included education and a mandate that garbage be covered when hauled by citizens; and

**WHEREAS**, Cleveland County public health facilities were expanded, renovated and updated, including the Cleveland County Health Department, the Cleveland County Health Department Annex, the Cleveland County Animal Shelter; and the Self/McNeilly Solid Waste Management Facility and new landfill were built; and

**WHEREAS**, the Cleveland County Health Department achieved 100% compliance on all (148) benchmarks/standards and was awarded full Accreditation status on July 16, 2008 by the North Carolina Accreditation Board; and

**WHEREAS**, the Cleveland County Health Department received the Nurse-Family Partnership Grant to implement a program which provides case management services to pregnant mothers, and has measured successful outcomes; and

**WHEREAS**, reported 2010 rabies cases are at the lowest rate since major outbreaks began in 1998, due to implementation of programs and policies under Ms. Stallings' leadership; and

**WHEREAS**, the Cleveland County Employee Health, Pharmacy, Optical and Wellness Programs and Walking Program to promote employee health and wellness was implemented under her direction; and

**WHEREAS**, the Cleveland County Health Department partnered with the Cleveland County Schools to implement an innovative nutrition education program that placed digital menu boards in each of the four high school cafeterias in an effort to reduce childhood obesity; and

**WHEREAS**, the Cleveland County Health Department has drawn down millions of dollars in state and federal grant funds; and

**WHEREAS**, the Cleveland County Health Department received awards including the 2009 Glaxo/Smith/Kline Child Health Recognition Award, 2007 Golden Project Award by the N.C. Public Health Association Wellness & Prevention Section for FIT Together Initiative, 1994 Appreciation for Outstanding Support of Schools from the Kings Mountain Schools and the 1989 Public Health Achievement Award for the State of North Carolina; and

**WHEREAS**, Ms. Stallings has served on numerous state and local committees including the 2010 North Carolina Public Health Study Commission, the 2010 North Carolina Public Health Improvement Plan Task Force, the Cleveland County Alliance For Health, and the CLECO Primary Care Network Board of Directors; and

**WHEREAS**, Denese Stallings has received awards including the 2007 Athena Award by the Cleveland County Chamber of Commerce, the 1997 Outstanding Local Health Director of the Year Award by the North Carolina Association of County Commissioners, the 1996 Carpathian Award for special recognition for efforts in women's health by North Carolina Equity, and the 1992 E. Stanly Hunter Award for Excellence for Administrative Leadership by the Western North Carolina Public Health Association;

**THEREFORE, BE IT RESOLVED**, that the Cleveland County Board of Commissioners recognize Denese R. Stallings for her dedication and service to public health in Cleveland County and its citizens upon the occasion of her retirement.

**ADOPTED THIS THE 6<sup>th</sup> DAY OF APRIL 2010.**

**PLANNING DEPARTMENT: CODE TEXT AMENDMENT – POLITICAL SIGNS (Schedule public hearing for April 20, 2010)**

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

**SPECIAL RECOGNITION**

**CLEVELAND COUNTY STEPONE CHALLENGE**

Anne Short shared information regarding the 2010 Cleveland County StepOne Challenge. Commissioners were given a pedometer and asked to participate in this six week walking program. Ms. Short recognized the StepOne Challenge as the largest county-wide walking program in North Carolina and recommended Commissioners adopt a resolution in support of the 5<sup>th</sup> Annual Cleveland County StepOne Challenge.

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

5th Annual Step One Challenge

**WHEREAS**, we recognize that obesity is one of the greatest public health challenges of our time; and

**WHEREAS**, we acknowledge that obesity rates for adults and children have doubled in the last twenty years and tripled for teens; and

**WHEREAS**, the Cleveland County Board of Health identified overweight and obesity as a public health issue in 2003 and has worked since that time to educate the public about the risks associated with obesity; and

**WHEREAS**, the Alliance for Health has identified overweight and obesity as an issue for action through community education and prevention; and

**WHEREAS**, healthy food choices and increased physical activity are essential to reducing the incidence of obesity and to reducing health problems associated with obesity; and

**WHEREAS**, residents of Cleveland County have participated successfully in walking contests in 2006, 2007, 2008 and 2009, walking 299,173,211 steps in 2009 or an average of 369,350 steps per participant; and

**WHEREAS**, walking is a physical activity available to residents of the county in all areas and in all walks of life;

**NOW, THEREFORE**, be it resolved that the Board of Commissioners for Cleveland County endorse the 2010 Step One Challenge as a primary way to increase physical activity and reduce obesity and encourage all residents of Cleveland County to participate in the Challenge, walking as teams for six weeks beginning April 24, 2010 and ending June 4, 2010, in response to this public health issue.

**IN WITNESS WHEREOF**, I have set my hand in Cleveland County, North Carolina this the 6th day of April, 2010

**PUBLIC HEARINGS**

**CLOSING OUT OF 2007 COMMUNITY DEVELOPMENT BLOCK GRANT; SCATTERED SITE HOUSING PROJECT**

Beth Pollard, Community Development Specialist with Isothermal Planning & Development Commission explained the purpose of the hearing is to receive comments from the residents concerning the County closing out a 2007 Community Development Block Grant; Scattered Site Housing Project. In 2007 Cleveland County received \$400,000 in CDBG funds from the NC Dept of Commerce, Division of Community Assistance for the purpose of providing financial assistance to several residents located throughout the county who were in need of substantial home repairs.

The county used CDBG funds to complete eligible activities including Housing Rehabilitation, emergency repairs, planning and administration. The county proposed to address 9 rehab units and completed 8 of those units. Seven units were proposed using L-1 Emergency Repair funds and 7 units were completed in that activity.

The County expended a total of \$399,672.36 and was successful in assisting a total of 15 families within the community with various housing needs. Any remaining funds will be de-obligated. Ms. Pollard explained that no action is required.

**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 with a block ad in the non-legal, non-classification section of the paper on March 25, 2010)

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

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

**PLANNING DEPARTMENT: ZONING MAP AMENDMENT – MICHAEL EVANS, SUNDOWN INVESTMENT, LLC (Case #10-08)**

Mr. McCarter presented a petition from Michael Evans of Sundown Investment, LLC requesting a zoning map amendment from Rural Agricultural (RA) to General Business (GB) for the property located at 336 Beaver Dam Church Road.

He provided background information as follows:

The 5-acre site contains a car wash and a small commercial building with partitions for 3 tenants. One of his tenants 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. Evans must first rezone the property, and then obtain a Conditional Use permit.

*Existing Land Use:* Sweepstakes, Take-Out Restaurant, Hair Salon, and Car Wash

*Future Land Use:* Residential

Mr. McCarter also 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 Michael Evans of Sundown Investment, LLC to rezone property at 336 Beaver Dam Church Road from Residential Agricultural (RA) to General Business (GB). The primary reason for this request is because gaming machines were installed without a zoning permit. The machines are only allowed in GB after also obtaining a conditional use permit. In this particular situation, the County would have to rezone the property to GB and then would have to go through the conditional use permit process. The Cleveland County Unified Development Ordinance allows a limited amount of commercial activity in the RA zone because of the rural low-density nature of the zone. Since the future land use is designated as residential, and there are no other GB zones located adjacent, it is our opinion that Cleveland County **not** rezone this property only because of gaming machines. If this area is better suited for GB zone then it should be specified in a comprehensive plan, and all uses that are permitted in the GB zone should be compatible with how future growth should occur.

**Planning Board Recommendation: DENY**

The Planning Board voted 7-0 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 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?*

No support from adjoining property owners was indicated on the petition.

*Surrounding Properties*

Residential surrounds property.

No opposition at the Planning Board meeting.

*Non-Conforming Uses*

The existing commercial uses are permitted in the Rural Agricultural District.

**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 March 17 and March 24, 2010.)

Adrian Rice spoke on behalf of Mr. Evans who was unable to attend the meeting. Mr. Evans felt as though reclassifying this property would open the area up for more business opportunities.

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 Ronnie Hawkins and unanimously adopted by the board, ***to close the public hearing.***

Chairwoman Boggs called for discussion among Commissioners.

Commissioner Hutchins made note that he believes all rezoning should be the work of the Board of Adjustment.

However, Commissioner Accor stated, "If it is not consistent with the Land Use Plan, I think that in itself would cause me to go along with the consultant and the Planning Board."

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

**ACTION:** Mary Accor made the motion, seconded by Ronnie Hawkins, and adopted by a majority vote ***to deny the zoning map amendment as recommended by the Planning Board.*** (Votes were recorded as Commissioner Hutchins voting to approve and all other Commissioners voting to deny)

**PLANNING DEPARTMENT: ZONING MAP AMENDMENT – RICKY RUPPE, JLR ENTERPRISES, INC. (Case #10-09)**

Mr. McCarter presented a petition from Ricky Ruppe of JLR Enterprises, Inc. requesting a zoning map amendment from Residential (R-CP) to General Business (GB-CP) for the property located at 3056 S. Lafayette Street (NC18) and three other adjoining Parcels.

He provided background information as follows:

Sweepstakes machines were recently installed in a retail store at 3056 S. Lafayette St. 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. Therefore, Mr. Ruppe must first re-zone the property and then obtain a conditional use permit.

*Existing Land Use:* Retail

*Future Land Use:* Residential

Mr. McCarter also 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 Ricky Ruppe of JLR Enterprises, Inc. to rezone multiple parcels at 3056 S. Lafayette Street (NC 18) from R-CP Residential Corridor Protection to GB-CP General Business Corridor Protection. As per the previous rezoning case (10-08), gaming machines were installed prior to proper permits. The area is very rural in nature, and future land use is projected as residential. As in the previous case (10-08) it is our opinion that Cleveland County **not** rezone this property for the sole purpose of allowing gaming machines. If this area is better suited for the GB zone then it should be specified in the comprehensive plan, and all uses that are permitted in the GB zone should be compatible with how future growth should occur.

**Planning Board Recommendation: DENY**

The Planning Board voted 5-2, to recommend that the request 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 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?**

No support from adjoining property owners indicated on petition.

**Surrounding Properties**

Rural area, residential surrounds these properties.

**Non-Conforming Uses**

The existing commercial uses are permitted in the CP overlay district along NC18. Two residential properties would become non-conforming.

**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 March 17 and March 24, 2010.)

Ricky Ruppe owns two of the properties listed in the rezoning petition. Mr. Ruppe explained that he is having a hard time keeping the building rented.

Bill McCarter noted that several of the parcels including in the rezoning petition have homes located on them. He explained that, should Commissioners approve the entire rezoning, these houses would be considered non-conforming. He also explained parcels could not be added to the rezoning but the area can be reduced.



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:** 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 Hawkins stated, "If existing zoning covers all of the businesses and homes currently located in the area, there is no reason to rezone the property."

Commissioner Hutchins has seen where other counties are looking at zoning ordinances and changing them due to the economic times. "Some counties are going through their land use plans to make sure that they are exactly where they need to be.

**ACTION:** Ronnie Hawkins made the motion, seconded by Mary Accor, and adopted by a majority vote *to deny the zoning map amendment.* (Votes were recorded as Commissioner Hutchins voting to approve and all other Commissioners voting to deny)

**PLANNING DEPARTMENT: ZONING MAP AMENDMENT – RICKY RUPPE JLR ENTERPRISES, INC. (Case #10-10)**

Mr. McCarter presented a petition from Ricky Ruppe of JLR Enterprises, Inc. requesting a zoning map amendment from Residential (R-CP) to General Business (GB-CP) for the four parcels at the intersection of McCraw Road and NC 150, approximately 11.4 acres.

He provided background information as follows:

Bridges Riding Equipment, located at 2617 Gaffney Road, is a retail use permitted in the Corridor Overlay District. This retail facility offers equestrian supplies (NAICS 451110) and utility trailer sales (NAICS 441229). Other commercial buildings are currently vacant.

*Existing Land Use:* Retail

*Future Land Use:* Residential

Mr. McCarter also 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 Ricky Ruppe of JLR Enterprises, Inc. to rezone several parcels along Gaffney Road from R-CP Residential Corridor Protection to GB-CP General Business Corridor Protection. The area is rural in nature, with some retain mixed with residential uses along the corridor. Future use is projected as residential. There is no mention of gaming machines with this proposal, but we wonder since the applicant is the same as case 10-09, is the reason for rezoning for gaming machines? Since the future land use is projected as residential, unless the County sees the need for this area to be developed as commercial, we recommend that the County **not** rezone this property.

**Planning Board Recommendation: DENY**

The Planning Board voted 6-1, to recommend that this request 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 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?**

Neighbors voiced opposition to increased commercial activity. They indicated problems with video poker/game rooms in the past.

#### **Surrounding Properties**

Rural area, residential surrounds these properties.

#### **Non-Conforming Uses**

The existing commercial uses are permitted in the CP overlay district along NC150

**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 March 17 and March 24, 2010.)

Ricky Ruppe 921 Chesnee Highway, Gaffney owns the vacant parcel and a parcel with two buildings. At the Planning Board meeting, there was lots of opposition but some of the opposition was not from adjoining property owners. Mr. Ruppe explained that he had someone interest in the vacant parcel but they would not purchase the property unless it was zoned General Business.

Mr. Jolley 2114 Gaffney Road Several years ago there were video poker machines in one of the buildings. There were always things going on out there. People would stop by wanting to use his phone at all hours of the night. “Our church is just one mile away. Our biggest concern is that we don’t know what is going to be there. However, we feel like it will most likely be video gaming. As a community we don’t want anything like this.”

Larry Greene 2330 McCraw Road explained that in the past, the community has had a nuisance from businesses located in Mr. Ruppe’s buildings. He is afraid that will happen again should the property be rezoned. He feels as though he doesn’t believe Mr. Ruppe’s story about what business may be locating in the empty lot.

Wonda Wommett 1556 Abes Mountain Road Mooresboro used to work in Gaffney and would see people drunk coming out of the buildings. “One time I saw someone stumbling in the road.”

Commissioner Eddie Holbrook asked Mr. Ruppe what other businesses were located in the area. He explained that there is an electronics service business and a warehouse.

Commissioner Hutchins said, “Mainly, the opposition that I heard was against Ricky Ruppe but I did not hear anything about what Bridges Riding Equipment wants.”

Mr. McCarter explained that Bridges Riding Equipment is currently in compliance so changing the zoning would not affect them.

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 Ronnie Hawkins and unanimously adopted by the board, *to close the public hearing.*

Chairwoman Boggs called for discussion among Commissioners.

Commissioners Hutchins said, "I have listened to what everyone said, even though Mr. Bridges property does not need to be rezoned, I think we need to honor his request since he signed the petition."

**ACTION:** Ronnie Hawkins made the motion, seconded by Eddie Holbrook, and adopted by a majority vote *to deny the zoning map amendment as recommended by the Planning Board.* (Votes were recorded as Commissioner Hutchins voting to approve and all other Commissioners voting to deny)

**PLANNING DEPARTMENT: ZONING MAP AMENDMENT – JOHN A. QUEEN (Case #10-11)**

Mr. McCarter presented a petition from John A. Queen, Jr. requesting a zoning map amendment from Residential (R) to General Business (GB) for a parcel near the intersection of Stony Point Road and Oak Grove Road, approximately one acre.

He provided background information as follows:

*Existing Land Use:* Vacant

*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 John Queen, Jr. to rezone a parcel on Stony Point Road from Residential (R), to General Business (GB). The areas to the north are rural residential in nature, while the area south is commercial. Future land use is projected as commercial. In this case, since the future land use is projected as commercial, and the County would be extending an existing GB district from adjacent property onto the proposed property, it is our opinion that Cleveland County **could** rezone this property.

**Planning Board Recommendation: APPROVE**

The Planning Board voted 5-2, to recommend that the request 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 is 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?**

Support by adjoining property owners was indicated on the petition.

### **Surrounding Properties**

Commercial in 3 corners of the intersection.  
Expansion of the commercial zoning district.

### **Non-Conforming Uses**

Vacant.

**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 March 17 and March 24, 2010.)

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:** Johnny Hutchins 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.

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

### **ORDINANCE AMENDING THE CLEVELAND COUNTY ZONING MAP Approximately One (1) Acre Near the Intersection of Stony Point Rd. and Oak Grove Rd. Residential (R) 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, John A. Queen, Jr. presented a petition to amend to the Cleveland County Zoning Map for the one acre vacant parcel of land near the intersection of Stony Point Road and Oak Grove Road from Residential to General Business; and

WHEREAS, the Cleveland County Planning Board found the map amendment would 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 and noted by 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 April 6, 2010, and legal notices published on March 19 and March 26, 2010 and a sign posted on March 17, 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 61452 from Residential (R) to General Business (GB) as illustrated on the attached map designated "Case 10-11", and being incorporated herein by reference and made part of this ordinance.

BEGINNING at a point in the center of Oak Grove Road (SR 1001), following property lines North 82-30-06 West 207.62 feet, North 23-14-58 West 204.20 feet, North 23-48-18 West 32.00 feet, South 68-20-49 East 243.89 feet, South 80-32-32 East 121.00 feet, thence with the centerline of the road, South 19-11-09 West 142.00 feet, to the point of BEGINNING.

This Ordinance shall become effective upon adoption and approval.

Adopted this 6th day of April, 2010 at 6:00 p.m.

### **PROPOSED INSTALLMENT FINANCING AGREEMENT AND BORROWING FOR SHELBY MIDDLE SCHOOL**

Finance Director Chris Crepps spoke regarding financing the new Shelby Middle School.

The county is expected to borrow approximately \$22 Million to fund this project. Commissioners were

asked to adopt a resolution authorizing the filing of an application for approval of an installment financing agreement authorized by section 160A-20 of the North Carolina General Statutes, approving such installment financing agreement and authorizing the execution and delivery of documents in connection therewith and approving the acquisition of real property to be used by the Cleveland County Board of Education. Cleveland County has been working on trying to receive a better rating. It was suggested that the board adopt a Budget- Financial Policies & Guidelines document to help improve her rating. Mr. Crepps presented the document to Commissioners for approval. Lastly, Mr. Crepps asked Commissioners to approve the Qualified School Construction Bonds Program Application for Authorization requesting \$6,825,000 to be used to fund a portion of the new Shelby Middle School. The remaining funds will be paid by Recovery Bonds.

**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 General Statutes)

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

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

**ACTION:** Mary Accor made the motion, seconded by Ronnie Hawkins and unanimously adopted by the board, *to adopt the resolution titled:* Authorizing the filing of an application for approval of an installment financing agreement authorized by section 160A-20 of the North Carolina General Statutes, approving such installment financing agreement and authorizing the execution and delivery of documents in connection therewith and approving the acquisition of real property to be used by the Cleveland County Board of Education (*copy found on Page \_\_\_\_ of Minute Book \_\_\_\_*).

**ACTION:** Mary Accor made the motion, seconded by Ronnie Hawkins and unanimously adopted by the board, *to adopt the Budget- Financial Policies & Guidelines document as follows:*

#### **CLEVELAND COUNTY**

#### **BUDGET- FINANCIAL POLICIES & GUIDELINES**

Cleveland County's financial policies and guidelines ensure fiscal strength and accountability, as well as guide the County in managing resources used to carry out governmental functions for its citizens. The guidelines presented below are specifically related to the development, adoption, and management of the budget.

The County's budget is prepared in accordance with the North Carolina Local Government Budget and Fiscal Control Act (North Carolina General Statutes, Chapter 159). The Budget and Fiscal Control Act regulates North Carolina governmental units in financial matters.

#### **Operating Budget and Fund Balance**

1. The County will operate under an annual balanced budget ordinance whereby the sum of the net revenues and appropriated fund balances equals the expenditure appropriations as required by The Local Government Budget and Fiscal Control Act.

2. Cleveland County's annual budget shall be adopted by July 1<sup>st</sup> of the new fiscal year, and shall begin on July 1 and end June 30.
3. The Board of Commissioners shall review and determine the property tax rate each fiscal year. The tax rate will be based on the county's cost of providing general government services.
4. Unreserved, undesignated fund balance of the General Fund at fiscal year end shall not fall below 8% of the subsequent year's adopted budget.
5. At June 30<sup>th</sup>, the minimum level of fund balance available for appropriation that should be on hand is 8% of the prior year's expenditures.
6. Revenues and expenses shall be budgeted at realistic levels that both avoid shortfalls and accurately reflect expenditure requirements.
7. The County shall avoid funding continuing expenses with one-time revenues.
8. The County will not assume funding responsibility for expired grant funded programs and positions without Board approval.
9. Amendments to the annual budget shall be made in accordance with Section III and IV of the Budget Ordinance.
10. The County shall have its accounts independently audited at the close of each fiscal year by a certified public accountant.

#### **Capital Projects**

1. The County shall prepare and present to the Board of Commissioners an updated 5-year Capital Investment Plan (CIP) every two years.
2. Capital projects included in the CIP should cost at least \$100,000, take more than one year to complete, and have a useful life of at least 10 years. Other items may be included if they represent a substantial investment of County funds.
3. Anticipated changes in operating expenses related to capital projects shall be identified in the CIP and included in the appropriate departments in the annual operating budget.
4. The County shall transfer from the General Fund to the County Capital Projects Fund an amount equal to the scheduled contribution according to the Future Capital Needs Financing Schedule as directed by the Board of Commissioners.
5. The Board of Commissioners will authorize individual capital projects by approving a balanced capital project ordinance in accordance with state statutes.

#### **Debt**

1. The approval, sale and repayment of debt for the County are determined by North Carolina statutes and regulations.
2. Per the state statutes, net debt shall not exceed 8% of the appraised value of property subject to taxation (NCGS 159-55).
3. Local policy places additional restrictions and guidance on the use of debt financing and debt structuring beyond the terms of the General Statutes:
  - a. The County shall structure its principal repayments in a way that achieves an overall reduction of 65% debt outstanding within 10 years.
  - b. Net direct debt (which includes all non-enterprise debt of the County) as a percentage of assessed valuation should not exceed 1.25%.
  - c. Net general obligation debt service as a percentage of the operating budget should not exceed 10.0%.
  - d. Net direct debt shall not exceed 80% of Operating Revenues.
4. Debt affordability will be determined using an objective, analytical approach. This process involves the comparison of generally accepted standards and guidelines.
5. Selection of debt instruments is made with reference to risk, cost, and term.
6. The County will seek to maintain and improve its ratings (currently A from Standard and Poor's Corporation, A1 from Moody's).

7. The County shall seek to increase the level of pay-as-you-go funding for major capital projects to reduce reliance on debt financing.

**ACTION:** Ronnie Hawkins made the motion, seconded by Johnny Hutchins and unanimously adopted by the board, *to approve submittal of the Qualified School Construction Bonds Program Application (copy found on Page \_\_\_\_ of Minute Book \_\_\_\_).*

## **REGULAR AGENDA**

### **RELOCATION OF PRIVATE GRAVESITE**

Attorney Tom Martin spoke on behalf of Karl Rybnicek concerning relocation of a gravesite from property owned by Mr. Rybnicek to the property of the Broad River Greenway. The gravesite consists of a stone marking Ida Hayes who died in the late 1800's. The gravesite has historic ties to the "River Mystique." It is thought that the relocation onto the Greenway property would serve as a point of interest for visitors to the Greenway. The request comes with the approval of the Broad River Greenway Board. By statute, permission must be obtained from the County Commissioners prior to advertising this intention.

**ACTION:** Eddie Holbrook made the motion, seconded by Mary Accor and unanimously adopted by the board, *to approve relocation of the gravesite onto the Greenway property to a location selected by the Broad River Greenway Ranger.*

### **PLANNING DEPARTMENT: MINIMUM HOUSING CODE ENFORCEMENT – JOSEPH MULLINAX- (2541 Brookfield Drive)- UPDATE**

At their February 16, 2010, Joseph Mullinax appeared before Commissioners asking that Commissioners not demolish his home located at 2541 Brookfield Drive. Commissioners gave milestones to Mr. Mullinax the first of which was to have all back taxed paid in full within sixty days. Bill McCarter explained that, "As of today, no back taxes have been paid for a total owed of \$2,550.66. The first milestone has not been met."

**ACTION:** Ronnie Hawkins made the motion, seconded by Mary Accor and unanimously adopted by the board, *to demolish the dwelling at 2541 Brookfield Drive.*

CLEVELAND COUNTY  
NORTH CAROLINA

AN ORDINANCE AUTHORIZING THE CODE ENFORCEMENT OFFICER TO DEMOLISH ADWELLING AT 2541  
BROOKFIELD ROAD

WHEREAS, pursuant to the provisions of Chapter 160A, Article 19, Part 6 of the North Carolina General Statutes, the dwelling located 2541 Brookfield Road, 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 dwelling; 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 dwelling remain, at this time, unfit for human habitation, dilapidated, and a danger to the health and safety of the citizens of Cleveland County and should be demolished in order to prevent and alleviate such danger and dilapidated conditions;

NOW, THEREFORE, BE IT ORDAINED BY THE CLEVELAND COUNTY BOARD OF COMMISSIONERS that the dilapidated dwelling at 2541 Brookfield Road now or formerly owned by Joseph Frank Mullinax, 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 6th day of April 2010 by the Cleveland County Board of Commissioners in open session.

**PLANNING DEPARTMENT: MINIMUM HOUSING CODE ENFORCEMENT – LARRY N. ALLEN (4223 Mountain View Drive)- UPDATE**

At their March 2, 2010 regular meeting, Larry N. Allen of 4223 Mountain View Drive appeared before the board asking Commissioners to give him an extension in order to clean up his property and restore one of the mobile homes located on the property. Bill McCarter informed Commissioners that on March 25, 2010, an inspection was made of the property located at 4223 Mountain View Drive. All abandoned mobile homes have been removed and the one mobile home still located on the property now meets the Cleveland County Building Code.

**KINGS MOUNTAIN BOARD OF ADJUSTMENT ETJ APPOINTMENT**

**ACTION:** Ronnie Hawkins made the motion, seconded by Johnny Hutchins, and unanimously adopted by the Board, to ***appoint Doug Lawing*** to serve as a member of the Kings Mountain Board of Adjustment as an ETJ representative, for a period of three-years, scheduled to conclude December 31, 2012.

**RESOLUTION: CHANGE IN REGULAR MEETING PLACE OF APRIL 20, 2010**

Chairwoman Boggs reminded Commissioners that several times a year, Commissioners hold their regular meetings out in the community in order to encourage attendance by local residents.

**ACTION:** Johnny Hutchins made the motion, seconded by Eddie Holbrook, ***to adopt the following resolution.***

**NUMBER 06-2010**

**CHANGE IN REGULAR MEETING SCHEDULE OF THE CLEVELAND COUNTY BOARD OF COMMISSIONERS**

**WHEREAS**, the Cleveland County Board of Commissioners have decided that it is appropriate to change their meeting place for their regular meeting of **Tuesday, April 20, 2010** from the Commission Chamber in the County Administrative Building to meet at the Belwood Community Center in Belwood. The meeting will begin at 6:00 p.m.

**NOW, THEREFORE, BE IT RESOLVED, THAT**, the Cleveland County Board of Commissioners will change the meeting place of said meeting and notify the public of their decision in accordance with the mandates of North Carolina General Statute 153A-40. The regular meeting schedule as adopted by the Board will resume after this meeting.

**ADOPTED THIS 6th DAY OF APRIL, 2010.**



## **COMMISSIONER REPORTS**

*Commissioner Hawkins-* asked Bill McCarter to give Commissioners a report of those members who are not attending Planning Board and Board of Adjustment meetings. In regards to that, Commissioner Accor asked if Mr. McCarter, on the recommendations from the Planning Board could list votes by member in case Commissioners had any questions.

At the last Board of Health meeting, Dorothea Wyant was appointed as the new Health Director to replace Denese Stalling who will retire April 30<sup>th</sup>.

*Commissioner Holbrook-* attended, with all other Commissioners, the Golden Leaf Review Committee meeting which recommended four projects to be presented to the Golden Leaf Board of Directors on April 30<sup>th</sup>. The final presentation for the American Legion World Series bid will be held in Indianapolis on May 2<sup>nd</sup>.

*Commissioner Accor-* was impressed by the new leadership of the Cleveland County Fair. She felt as though the board is trying to make the fairgrounds a “community” place again.

*Commissioner Hutchins-* attended the RPO meeting where they were discussing creating a regional organization which would be created to look at road funding. This organization would most likely recommend increased tax. At the RPO meeting, Commissioner Hutchins made note that Cleveland County would not be in support of any increased taxes. He also asked other local officials in municipalities throughout Cleveland County to become active in this organization.

## **ADJOURN**

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

The next regular meeting of the Commission is scheduled for *Tuesday, April 20, 2009 at 6:00 p.m at the Belwood Community Center.*

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

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*Kerri Melton, Clerk  
Cleveland County Board of Commissioners*