

**CLEVELAND COUNTY BOARD OF COMMISSIONERS**

**July 13, 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 (*excused at 7:05*)  
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  
Alexis Pearson, Human Resources Director  
Chris Crepps, Finance Director  
Danielle Anzelone, *Cleveland Headline News*  
David Allen, *Shelby Star*  
Other individual names on file in the Clerk's Office

**CALL TO ORDER**

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

**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 with the following additions:*

***F. PLANNING DEPARTMENT: CODE TEXT AMENDMENT Radio Towers (Case #10-18) (Schedule public hearing for August 3, 2010)***

***16) REPORT ON MATH ACADEMY***

**CITIZEN RECOGNITION**

***Neal Hodges***, read an emotional statement regarding his petition for a code text amendment dealing with the construction of radio towers in Cleveland County. Commissioners voted to schedule a public hearing for August 3, 2010 to discuss the proposed amendment.

**CONSENT AGENDA**

**APPROVAL OF MINUTES**

There being no corrections, additions, or deletions to the Minutes of *June 1, 2010*, motion was made by Johnny Hutchins, seconded by Eddie Holbrook, and unanimously adopted by the Board, to *approve the minutes as written*.

**HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #001)**

**ACTION:** Johnny Hutchins 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>
012.543.4.350.00	Grants/State Gov't Grants	\$6,063.	
012.543.5.213.00	Grants/Office Supplies	1,000.	
012.543.5.311.00	Grants/Education Exp.	1,000.	
012.543.5.500.01	Grants/Misc. Grant Exp.	2,563.	
012.543.5.581.00	Grants/Awards/Appreciation	1,500.	

*Explanation of Revisions: Budget North Carolina public Health Foundation Quality Improvement Grant for project expenses. The Cleveland County Health Department project will focus on increasing immunization rates.*

**TAX ADMINISTRATION: ORDER TO COLLECT TAXES**

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

*State of North Carolina  
County of Cleveland*

To Linda Wiggins, Tax Collector:

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records for the year 2010, and all taxes outstanding for tax years 2000 through 2009, as filed in the office of the Tax Collector and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in Cleveland County and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, and to use or cause to be used, all remedies provided by law.

Adopted this the 13<sup>th</sup> day of July 2010.

**TAX COLLECTOR'S MONTHLY REPORT**

The Tax Collector provided Commissioners with a detailed written report regarding taxes collected during *June 2010* (copy found on Page \_\_\_\_\_ of Minute Book \_\_\_\_\_).

**TAX ABATEMENTS AND SUPPLEMENTS**

The Tax Assessor provided Commissioners with a detailed written report regarding tax abatements and supplements during *June 2010*. The monthly grand total of tax abatements was listed as (\$5,931.86); and, the monthly grand total for tax supplements was listed as \$1,887.82.

**PLANNING DEPARTMENT: CODE TEXT AMENDMENT – JAMES N. HODGES, (Case 10-18)(Schedule public hearing for August 3, 2010)**

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

**SPECIAL RECOGNITION**

**RESOLUTION HONORING DR. MICHAEL MILLER**

On May 8, 2010, Dr. R. Michael Miller was killed in a tragic accident at his home.

Commissioners found it appropriate to honor Dr. Miller by presenting his wife, June Miller with a resolution in appreciation of Dr. Millers contributions to Cleveland County. The certificate read as follows:

**ACTION:** All Commissioners made the motion, seconded, and unanimously adopted by the Board, *to adopt the following resolution:*

**Number 16-2010**

***IN APPRECIATION OF CONTRIBUTIONS TO CLEVELAND COUNTY  
DR. R. MICHAEL MILLER***

***WHEREAS,*** the late Dr. R. Michael Miller has been a positive influence on the lives of countless residents of Cleveland County; and

***WHEREAS,*** Dr. Miller will be missed by so many; his dedicated service to the community and his genuine caring of others deserves special recognition; and

***WHEREAS,*** for more than thirty-three years, Dr. Miller cared for the residents of Cleveland County by forming Shelby Family Practice in 1977; and

***WHEREAS,*** the practice joined Carolinas HealthCare System in 1997 and a satellite office was opened in Boiling Springs in 2007; and

***WHEREAS,*** by many of his patients, Dr. Miller was not only considered a physician who was totally accessible but also a friend; and

***WHEREAS,*** Dr. Miller served as volunteer medical director from the time the Hospice Wendover residential wing opened for approximately ten years; and

***WHEREAS,*** during his tenure as the Hospice volunteer medical director, Dr. Miller was described with kind words such as "he always had the right thing to say" and "he always made someone feel important to him"; and

***WHEREAS,*** Dr. Miller was an effective leader at Cleveland Regional Medical Center having served as Chief of Medical Staff and most recently serving as an active member of the Cleveland County Healthcare System Community Trustee Council;

***NOW, THEREFORE, WE, THE CLEVELAND COUNTY BOARD OF COMMISSIONERS,*** hereby express our sincere appreciation and deep gratitude for the dedication and quality care Dr. R. Michael Miller has given to the citizens of Cleveland County for over thirty-three years.

**ADOPTED THIS THE 13<sup>th</sup> DAY OF JULY 2010.**

**REGULAR AGENDA**

**NCDOT: PROPOSED SECONDARY ROAD IMPROVEMENT PLAN**

Gary Spangler, NCDOT District I Engineer, presented the Secondary Road Improvement Program to Commissioners.

Mr. Spangler noted that there was no funding for this program last year so he has not been before Commissioners to present a program since 2008. As before, the Secondary Road Improvement Program offers two types of funding- the Highway Fund (car sales tax, etc.) and the Trust Fund (gas

tax). To date, all subdivision roads have been paved, leaving only rural paving. Mr. Spangler estimated that 32 miles or 70 rural roads are left unpaved. Mr. Spangler did not recommend any paved road improvements. All funding will be used for the improvements of unpaved roads.

**ACTION:** Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the board, *to adopt the following resolution.*

**NUMBER 15-2010**

**NORTH CAROLINA DEPARTMENT OF TRANSPORTATION APPROVAL OF 2010-2011 SECONDARY ROADS IMPROVEMENT PROGRAM**

**WHEREAS,** representatives from the North Carolina Department of Transportation appeared before the Board of Commissioners on July 13, 2010 and presented the Secondary Roads Improvement Program for 2010-2011 for Cleveland County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF CLEVELAND COUNTY, NORTH CAROLINA that the Cleveland County Board of Commissioners has reviewed said program and concurs with the Secondary Roads Improvement Program for 2010-2011 as presented by the representatives of the North Carolina Board of Transportation as attached:

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

**FY 2010-2011 Anticipated Allocation**

Highway Fund G.S. 136-44.5	\$822,433.58
Trust Fund G.S. 136-182	\$987,796.75
<b>Total</b>	<b>\$ 1,810,230.33</b>

**Programmed Paving Goal: 5.46**

**I. Paving Unpaved Roads**

A. Rural Paving Priority Highway Fund G.S. 136-44.5

Priority Number	SR No.	Length (Miles)	Road Name and Description	Est. Cost
4	1245	0.40	Echo Drive From SR 1184 to DE	\$ 150,000.00
5	1520	0.57	Dobbs RD From NC226 to SR 1521	\$ 200,000.00
6	1527	1.70	Meadow Creek Rd From SR 1524 to SR 1529 (Partial Funding)	\$ 432,433.58
<b>Total</b>	<b>2.67</b>		<b>Subtotal:</b>	<b>\$ 782,433.58</b>

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

Priority Number	SR No.	Length (Miles)	Road Name and Description	Est. Cost
7	1215	0.70	Stice Shoals Rd. From SR 1130 to DE	\$ 250,000.00
8	1824	1.05	Dick Spangler Rd. From EP to SR 1005	\$ 370,000.00
9	1671	0.44	Hord Rd. From SR 1501 to EP	\$ 200,000.00
10	1157	0.60	Vassey Rd. From SR 1161 to DE (Partial Funding)	\$ 167,796.75
<b>Total</b>	<b>2.79</b>		<b>Subtotal:</b>	<b>\$ 987,796.75</b>

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

\* Rural Paving Alternatives

Priority Number	SR No.	Length (Miles)	Road Name and Description	Est. Cost
11	1347	0.60	Derby Dr. From SR 1337 to DE	\$ 210,000.00
12	1198	0.39	Mort Rd. From EP to SC Line	\$ 150,000.00

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

**II. General Secondary Road Improvements**

A. Unpaved Road Spot Improvements

Highway Fund G.S. 136-44.5	\$10,000.00
<b>Subtotal:</b>	<b>\$10,000.00</b>

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

Priority Number	SR No.	Length (Miles)	Road Name and Description	Est. Cost
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			Previous submitted projects not completed.	
			<b>Subtotal:</b>	<b>\$ -</b>
<b>III. Funds reserved for surveying, right of way acquisition, right of way acquisition, road additions, contingencies, overdrafts, and paving entrances to certified fire departments, rescue squads, etc.</b>				
			Highway Fund G.S. 136-44.5	\$30,000.00
			<b>Subtotal:</b>	<b>\$ 30,000.00</b>
			<b>GRAND TOTAL:</b>	<b>\$1,810,230.33</b>

Adopted and approved this the 13th day of July 2010.

**CLEVELAND COUNTY SPORTS COMMISSION UPDATE**

Denese Stallings, President of the Cleveland County Sports Commission began by thanking Commissioners for their faith in the Sports Commission. Since hiring Jay Rhodes last year, Ms. Stallings believes that the Commission “has their footing and are trying to do a better job.” The mission of the Sports Commission is to bring \$500K annually to Cleveland County. They have met those expectations and hope that next year, during budget planning, Commissioners will look favorably on the Sports Commission since they are making a difference.

Ms. Stallings introduced Jay Rhodes, Cleveland County Sports Commission Executive Director. Mr. Rhodes shared some of the successes since he has been the Executive Director and several events of interest which may come to Cleveland County in the future.

This year, the Sports Commission hosted the 3<sup>rd</sup> Annual Holiday Classic basketball tournament. This event raised \$2,200 for each of the four high schools located in Cleveland County for a total raised of \$8,800. A State AAU Gymnastics Tournament was held at Gardner-Webb University. Over 750 people attended this event and it is estimated that the economic impact of that event was \$97,000. The Land of Sky Gun Show will be held in the old Walmart Building during the last weekend in July. Event coordinators are hoping that this will be the first of many. The Sports Commission will be assisting the local Carp Anglers who will host an International Carp Fishing event at Midway #2. Mr. Rhodes is looking into hosting a flag football event, a High School All-American Football Game, Collegiate Golf Tournament and a Cycling event.

Denese Stallings came back to the podium and gave an update on the Upper Cleveland Sports Complex. A meeting will be held with Upper Cleveland County political leaders to discuss the construction of this complex. The first step is the completion of a Master Plan. Money will need to be raised to complete the Master Plan which is one of the purposes of the scheduled meeting.

**SALE OF TAX FORECLOSURE PROPERTY- PARCEL ID #29617**

Tax Administrator, Chris Green presented Parcel #29617 for approval of sale. Property was obtained through tax foreclosure in 2006. A bid was received through the sealed bid process and has met all of the Tax Foreclosure Property Guidelines approved by Commissioners at their December 2, 2008 meeting. Sale was properly advertised by the County Clerk. Mr. Green recommended the sale of the property as follows:

<b>Parcel ID #</b>	<b>High Bidder</b>	<b>Bid Amount</b>
29617	Frederick B. Littlejohn	\$2,361.00

**ACTION:** Ronnie Hawkins made the motion, seconded by Mary Accor, and unanimously adopted by the Board, *to approve sale of Parcel #29617 to Frederick B. Littlejohn for \$2,361.00.*

**BOARD APPOINTMENT: SOCIAL SERVICES COMMISSIONER REPRESENTATIVE**

**ACTION:** Eddie Holbrook made the motion, seconded by Ronnie Hawkins, and adopted by a majority vote *to appoint Mary Accor to serve as the Commissioner Representative on the Cleveland County Social Services Board for a term of three-years to expire June 30, 2013.* (Votes were recorded as Commissioners Hutchins not in favor and all other Commissioners in favor)

Commissioner Hutchins explained his opposition by stating, "I think some of these major boards have been tied up for many years by the same Commissioners. I think that we need to give others a chance."

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

**ACTION:** Ronnie Hawkins made the motion, seconded by Eddie Holbrook and unanimously adopted by the Board, *to appoint Vice-Chairman Johnny Hutchins to serve as voting delegate at the 2010 Annual NCACC conference.*

**PUBLIC HEARINGS**

**GRANT FUNDING FOR CLEARWATER PAPER**

Teresa Spires of Isothermal Planning and Development Commission presented two resolutions for approval. The resolutions authorize the submittal of grant applications to Community Development Block Grant (CDBG) and the Industrial Development Fund (IDF) for economic development to benefit Clearwater Paper. Both grants will be used to construct an access road and a railroad spur for the company. Ms. Spires broke down the project costs as follows:

CDBG	\$1,000,000 grant request	\$130,000 road access \$840,000 railroad spur \$30,000 grant administration
IDF	\$500,000 grant request	\$445,000 road access \$50,000 railroad spur

\$5,000 grant administration

The engineer is completing the design and will be presenting Ms. Spires with a final estimate shortly. The grant application will commit to the creation of 182 jobs and a \$180 Million investment during the first two years.

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

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:** Ronnie Hawkins made the motion, seconded by Eddie Holbrook and unanimously adopted by the board, *to close the public hearing.*

**ACTION:** Ronnie Hawkins made the motion, seconded by Eddie Holbrook and unanimously adopted by the board to, *to adopt the following resolutions:*

Number 17-2010

***RESOLUTION FOR THE COUNTY OF CLEVELAND APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR THE CLEARWATER PAPER RAILROAD SPUR AND ACCESS ROAD PROJECT***

**WHEREAS**, the County's Board of Commissioners has previously indicated its desire to assist in economic development efforts within the County; and,

**WHEREAS**, the Board has held two public hearings concerning the proposed application for Community Development Block Grant funding to benefit Clearwater Paper; and,

**WHEREAS**, the Board wishes the County to pursue a formal application for Community Development Block Grant funding to benefit Clearwater Paper; and will invest monies in the amount of \$0 into the project as committed to in the application.

**WHEREAS**, the Board certifies it will meet all federal regulatory and statutory requirements of the Small Cities Community Development Block Grant Program,

**NOW, THEREFORE BE IT RESOLVED**, by the County's Board of Commissioners that the County of Cleveland is authorized to submit a formal application to the North Carolina Department of Commerce for approval of a Community Development Block Grant for Economic Development to benefit Clearwater Paper.

*Adopted and approved this the 13th day of July 2010*

Number 18-2010

***RESOLUTION FOR THE COUNTY OF CLEVELAND APPLICATION FOR INDUSTRIAL DEVELOPMENT FUND FUNDING FOR THE CLEARWATER PAPER RAILROAD SPUR AND ACCESS ROAD PROJECT***

**BE IT RESOLVED**, that a grant from the Department of Commerce through the County of Cleveland be made to assist the Clearwater Paper Railroad Spur and Access Road project.

**BE IT FURTHER RESOLVED**, that Cleveland County will administer this grant in accordance with the rules and regulations of the Department of Commerce.

**BE IT FURTHER RESOLVED**, that the County will administer this grant through the County Finance Office with the assistance of Isothermal Planning and Development Commission staff.

**BE IT FURTHER RESOLVED**, that the grant will be monitored quarterly to assure compliance with this proposal and the Department of Commerce regulations.

*BE IT FURTHER RESOLVED*, that the amount of the grant application will be \$500,000.

*Adopted and approved this the 13th day of July 2010.*

*(Commissioner Eddie Holbrook was excused from the meeting at 7:05)*

**ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT: PROJECT DIESEL**

Kristin Fletcher, Vice President of Economic Development reviewed the incentive agreement for Project Diesel(*copy found on Page \_\_\_\_\_ of Minute Book \_\_\_\_\_*).

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

Chairwoman Boggs asked if there were any comments or if Commissioners had questions of anyone in the audience or staff.

*Michael Chrisawn, Cleveland Chamber President*, spoke in favor of the incentive program.

“Economic Development fills the air tonight. This is one more positive event in the lives of Cleveland County residents. We need to take every chance we have to add jobs to our area.”

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.

**ACTION:** Mary Accor made the motion, seconded by Ronnie Hawkins and unanimously adopted by the board, *to approve the incentive agreement for Project Diesel as presented.*

**ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT: PROJECT IFOX**

**ACTION:** Ronnie Hawkins made the motion, seconded by Mary Accor and unanimously adopted by the board, *to postpone the public hearing on Project IFOX until the August 3, 2010 regular meeting.*

**PLANNING DEPARTMENT: ZONING MAP AMENDMENT – RANDOLPH BIGGERS (Case #10-15)**

At their June 1, 2010 regular meeting, Commissioners voted unanimously to send this case back to the Planning Board for further review. Mr. McCarter again presented the petition from Randolph Biggers requesting a zoning map amendment from Residential (R-CP) to General Business (GB) for a 2.8 acre tract along Cleveland Avenue (NC226) between Patterson Springs and Grover. Mr. McCarter reviewed the revised recommendation from the Planning Board making note that it is the recommendation of the Planning Board to amend the Land Use Plan prior to approving the zoning map amendment thus making the property consistent with the Land Use Plan.



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

A request from Randolph Biggers to rezone a 2.8 acre tract along Cleveland Avenue from R-CP Residential, to GB General Business. The future land use is projected to be residential. We recommend NOT rezoning this tract unless the County wants to reconsider the future land use designation in its Comprehensive Plan.

**Planning Board Recommendation: APPROVE**

The Planning Board voted unanimously (6-0) to recommend that the Land Use Plan be amended to establish a Commercial Node that will encompass existing businesses in this area. This revision will allow the proposed zoning amendment to be consistent with our land use plan.

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”. Our Board also suggested that legal counsel review this case and provide comment on the process of amending the Land Use Plan.

***Consistent with the 2015 Land Use Plan***

Our current plan does not reflect the cluster of existing businesses in this area. Therefore, the Board recommended that this area be designated as a “commercial node”, and the proposed General Business (GB) zoning district would then be consistent with our plan.

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

The feed mill was constructed in 1950’s. After closing, a variety of businesses have been located at this site, currently a machine shop is operating in one of the buildings. Other businesses have located in this area in the past, including a convenience store, upholstery shop, and florist. The Board felt that it was important to protect existing small businesses and encourage them to locate here.

***Surrounding Properties***

Rural residential in nature.

***Non-Conforming Uses***

CP Metal Crafters Inc. (permitted use only in LI or HI)

Commissioner Hawkins voiced his concern with amending the Land Use Plan for the sole purpose of making this property consistent with the Land Use Plan for a zoning map amendment. He noted that Commissioners have had several zoning map amendments that were denied because they were not consistent with the Land Use Plan. He believes that, doing this would set a precedent to always change the Land Use Plan to fit a zoning map amendment. He suggested that Commissioners look at reviewing the entire Land Use Plan at a work session, sooner rather than later.

Mr. McCarter noted that the only time that they have changed the Land Use Plan was to expand the industrial area around the Duke Energy-Cliffside Plant.

Commissioner Hutchins spoke in favor of approving the amendment to the Land Use Plan and the zoning map. He mentioned that the petitioners are asking for this change to increase their business. “This is one area I feel like we need to address our planning map. If we can create nodes throughout our thoroughfare, we can get some new business to locate there. Otherwise, there will be no major businesses to locate in the area.”

Commissioner Accor agreed with Commissioner Hawkins. She was concerned that if we amend the Land Use Plan for this specific case, we are setting precedent for all other zoning map amendments.

*(Clerk's Note: The public hearing regarding this zoning map amendment was held on June 1, 2010)*

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

**PLANNING DEPARTMENT: ZONING MAP AMENDMENT – JOHN PRIBBLE (Case #10-17)**

Bill McCarter, Planning Director presented a petition from John Pribble requesting a zoning map amendment from Residential (R) to Neighborhood Business (NB) for approximately 2.5 acres along Sulphur Springs Road, near the NC180 and NC198 split.

He provided background information as follows:

Parcel 3252	Single-wide mobile home. Residential uses are permitted in NB.
Parcel 60611	Property is vacant

This area is projected to be commercial on the 2015 Land Use Plan.

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

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

The request is from John Pribble to rezone two parcels located on Sulphur Springs Road (just north of the intersection with NC180-South Post Road) from (R) Residential to (NB) Neighborhood Business. The parcels surrounding this property are mostly residential, but there are General Business and Neighborhood Business Districts just south of the property, at the intersection of Sulphur Springs Road and South Post Road. The future land use is projected as Commercial. It should also be noted that residential uses are permitted in the NB zoning district.

Based upon all pertinent information that I have reviewed, it is my opinion that Cleveland County could legally rezone this property from (R) Residential to (NB) Neighborhood Business.

**Planning Board Recommendation: APPROVE**

The Planning Board voted unanimous (6-0) 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”.

***Is the amendment consistent with the 2015 Land Use Plan?***

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

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

The Board considered this intersection a growing commercial area.

***Surrounding Properties***

Residential served by commercial to the south along NC 180.

***Non-Conforming Uses***

Existing residential use is permitted in the proposed Neighborhood Business 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 July 1 and July 8, 2010.)

John Pribble, 1827 Sulphur Springs Road, introduced himself as the petitioner. Mr. Pribble has lived on this land for forty-four years. It was originally his grandfathers land. He has been a martial artist for 27 years and has run a dojo for the last 20 years. The purpose of this rezoning is to allow him to open a dojo on this property. “It is important that whatever I do brings a positive impact to the area.”

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:** Ronnie Hawkins 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.

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

**ORDINANCE AMENDING THE CLEVELAND COUNTY ZONING MAP  
1827 Sulphur Springs Road  
Residential (R) to Neighborhood Business (NB)**

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 Pribble presented a petition to amend the Cleveland County Zoning Map containing approximately 2.84 acres along Sulphur Springs Road from Residential (R) to Neighborhood Business (NB); and

WHEREAS, the Cleveland County Planning Board found this parcel was classified as “Commercial” on our 2015 Future Land Use Plan, and the Neighborhood Business zoning district would be consistent with the comprehensive plan; and

WHEREAS, the Cleveland County Planning Board found the amendment to be reasonable, and in the best interest of the public as a growing commercial area; and

WHEREAS, in accordance with NCGS 153A-343, a public hearing was held by the Cleveland County Board of Commissioners on July 13, 2010, and legal notices published on July 1 and July 8, 2010 and a sign posted on July 1, 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 3252 from Residential (R) to Neighborhood Business (NB) as illustrated on the attached map designated “Case 10-17”, and being incorporated herein by reference and made part of this ordinance.

BEGINNING at a rebar set, said rebar being the Northeast corner of the John Pribble property (DB1544/1654); thence running S 08-52-36 E 374.60 feet to a rebar; thence running S 07-40-30 E 149.97 feet to a rebar; thence running N 67-15-00 W 228.93 feet to an unmarked point in the right of way for Sulphur Springs Road; thence running with said right of way N 17-57-12 W 137.09 feet to an unmarked point; thence continuing to run with said right of way N 19-07-47 W 269.72 feet to an unmarked point; thence running with the Summey property (now or formerly) N 82-38-06 E 272.83 feet to the place of BEGINNING, containing 2.484 acres, more or less.

This Ordinance shall become effective upon adoption and approval.

Adopted this 13<sup>th</sup> day of July, 2010 at 6:00 p.m.

**PROPOSED INSTALLMENT FINANCING AGREEMENT AND BORROWING FOR THE  
LEGRAND CENTER AND REFINANCING OF DEBT**

Finance Director Chris Crepps spoke regarding financing the new LeGrand Center as well as the refinancing of debt to a lower interest rate. The county will borrow up to \$32 Million. Approximately \$15-\$16 Million will be used towards the construction of the Center. The remaining money will be used to refinance old debt. Commissioners were asked to adopt a resolution authorizing the filing of an application for approval of an installment financing authorized by section 160A-20 of the North Carolina General Statutes and (2) approving such installment financing and authorizing the execution and delivery of documents in connection therewith.

**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 General Statutes)

Chairwoman Boggs asked if there were any comments or if Commissioners had questions of anyone in the audience or staff.

Chairwoman Boggs thanked County Manager David Dear and Mr. Crepps for taking care of the county's tax dollars noting that the county received a 1.91% interest rate on the Shelby Middle School project.

Hearing no comments, she called for the public hearing to be closed.

**ACTION:** Ronnie Hawkins made the motion, seconded by Mary Accor 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 following resolution:*

**RESOLUTION (1) AUTHORIZING THE FILING OF AN APPLICATION FOR APPROVAL OF AN  
INSTALLMENT FINANCING AUTHORIZED BY SECTION 160A-20 OF THE NORTH CAROLINA  
GENERAL STATUTES AND (2) APPROVING SUCH INSTALLMENT FINANCING AND AUTHORIZING  
THE EXECUTION AND DELIVERY OF DOCUMENTS IN CONNECTION THEREWITH**

**WHEREAS**, financing pursuant to Section 160A-20 of the North Carolina General Statutes must be approved by the Local Government Commission of North Carolina and will only be approved if the findings of Section 159-151(b) of the North Carolina General Statutes are met;

**WHEREAS**, the Board of Commissioners of the County duly conducted a public hearing today regarding an installment financing to finance the (1) acquisition, construction and equipping of a middle school and certain community college and public school facilities and improvements (the "Projects") and (2) prepayment of certain

installment payment obligations pursuant to financing agreements with Branch Banking and Trust Company dated as of December 13, 2007 and April 27, 2009 (the "Prior Financing Agreements");

**WHEREAS**, the County and Cleveland County Public Facilities Corporation (the "Corporation") previously entered into an Installment Financing Agreement dated as of June 1, 2010 (the "Installment Financing Agreement") for the purposes specified therein;

**WHEREAS**, the Corporation and Wells Fargo Bank, National Association, as trustee (the "Trustee") entered into a Trust Agreement dated as of June 1, 2010 (the "Trust Agreement") pursuant to which the Corporation executed and delivered its \$15,175,000 Taxable Limited Obligation Bonds (Recovery Zone Economic Development Bonds), Series 2010A (the "2010A Bonds") and its \$6,825,000 Taxable Limited Obligation Bonds (Qualified School Construction Bonds), Series 2010B (the "2010B Bonds" and together with the 2010A Bonds, the "2010 Bonds");

**WHEREAS**, the County previously conveyed certain property in connection with the 2010 Bonds pursuant to the Deed of Trust dated as of June 1, 2010 (the "Deed of Trust") to a deed of trust trustee for the benefit of the Corporation;

**WHEREAS**, in order finance the Projects and the prepayment of the Prior Financing Agreements, the Corporation will execute and deliver Additional Bonds (as defined in the Trust Agreement);

**WHEREAS**, there have been available at this meeting drafts of the forms of the following:

- (1) First Amendment to Installment Financing Agreement to be dated as of August 1, 2010 (the "Amended Contract") between the County and the Corporation;
- (2) Modification of Deed of Trust to be dated as of August 1, 2010 (the "Deed of Trust Modification") from the County to a trustee for the benefit of the Corporation;
- (3) First Supplemental Trust Agreement to be dated as of August 1, 2010 (the "First Supplemental Trust Agreement") between the Corporation and a trustee (the "Trustee");
- (4) Preliminary Official Statement (the "Preliminary Official Statement") relating to Limited Obligation Bonds evidencing proportionate undivided interests in revenues to be received by the Corporation under the Amended Contract (the "Bonds"); and
- (5) Contract of Purchase (the "Purchase Contract") between a certain underwriter (the "Underwriter") and the Corporation, including the Letter of Representation attached thereto (the "Letter of Representation").

**WHEREAS**, the Board of Commissioners of the County wants to approve the Amended Contract and related documents and the sale of the Bonds and to authorize other actions in connection therewith; and

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the County as follows:

1. The Board hereby finds and determines in connection with the proposed installment financing that (a) such proposed installment financing is necessary or expedient to the County, (b) such proposed installment financing, under current circumstances, is preferable to a general obligation bond issue of the County for the same purpose, (c) the sums estimated to fall due under such proposed installment financing are adequate and not excessive for their proposed purpose, (d) the County's debt management procedures and policies are good and its debt will continue to be managed in strict compliance with the law, (e) any increase in taxes necessary to meet the sums estimated to fall due under such proposed installment financing will not be excessive and (f) the County is not in default regarding any of its debt service obligations.
2. The Board hereby requests the Local Government Commission of North Carolina to approve such proposed installment financing under Article 8 of Chapter 159 of the General Statutes of North Carolina.
3. The County Manager and the Finance Director are hereby designated as representatives of the County to file an application for approval of such proposed installment financing with the Local Government Commission of North Carolina and are authorized to take such other action as may be advisable in connection with the negotiation of such proposed installment financing and the development of the related financing; and all actions heretofore taken by the employees of the County relating to such matters are hereby approved, ratified and confirmed.
4. Each of the Amended Contract, the Deed of Trust Modification and the Letter of Representation, in the form submitted to this meeting, is hereby approved, and the Chairman of the Board, the County Manager, the Finance Director, any Deputy Finance Director, and the Clerk to the Board are each hereby authorized and directed to execute and deliver each of those documents, on behalf of the County, with such changes, insertions or omissions as each may approve, the execution thereof by any of them to constitute conclusive evidence of such approval.
5. Each of the First Supplemental Trust Agreement and the Purchase Contract, in the form submitted to this meeting, is hereby approved in substantially such form, with such changes, insertions or omissions as appropriate.

6. Each of the Preliminary Official Statement and the final Official Statement, in the form of the Preliminary Official Statement to this meeting, is hereby approved, in substantially such form, with such changes, insertions and omissions as appropriate, and the use thereof in connection with the public offering and sale of the Bonds is hereby authorized. The Chairman of the Board, the County Manager and Finance Director are each hereby authorized and directed to deliver on behalf of the County, the final Official Statement in substantially such form, with such changes, insertions and omissions as each may approve.
7. The Chairman of the Board, the County Manager, the Finance Director, the Clerk to the Board and the County Attorney are each hereby authorized to take any and all such further action and to execute and deliver such other documents as may be necessary or advisable to carry out the intent of this Resolution and to effect the installment financing pursuant to the Amended Contract. Without limiting the generality of the foregoing, the Finance Director is authorized to approve all details of the financing, including without limitation, the amount advanced under the Amended Contract (which shall not exceed \$32,000,000), the annual principal payments under the Amended Contract, the interest rates for any fixed rate Bonds, the terms of the Amended Contract, and the price at which the Bonds are sold to the Underwriter or the fee paid to the Underwriter. Execution of the Amended Contract by the Chairman of the Board, the County Manager or the Finance Director, shall conclusively evidence approval of all such details of the financing.
8. All actions of the County effectuating the proposed financing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the documents referred to above.
9. This Resolution shall become effective immediately upon its adoption.

### **MATH ACADEMY**

The Math Academy is held the last three weeks in July each year. This program provides two hours of math and one hour of enrichment daily. In 2008, 56 students were enrolled in the program at one academy site. Currently, 100 students are enrolled at two academy sites. The highest level of teachers are chosen for the academy and children are taught not only math, but lessons on attitude, teamwork and high expectations. The Math Academy is community owned and community funded. Commissioners received a letter from Community Math Academy stating that they have fallen short on funding this year. They have raised \$28,000 but require \$31,000 to run the program. Any donation made to this program would be non-recurring.

**ACTION:** Ronnie Hawkins made the motion, seconded by Johnny Hutchins and unanimously adopted by the board, *to supplement the Math Academy with a \$1,000 donation.*

### **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 next regular meeting of the Commission is scheduled for *Tuesday, August 3, 2010 at 6:00 p.m.* in the Commission Chamber.

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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*