

CLEVELAND COUNTY BOARD OF COMMISSIONERS

September 6, 2011

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: Johnny Hutchins, Chairman
Ronnie Hawkins, Vice-Chairman
Mary S. Accor, Commissioner
Eddie Holbrook, Commissioner
Jason Falls, Commissioner
David C. Dear, County Manager
Andrea Leslie-Fite, County Attorney
Kerri Melton, County Clerk
April Crotts, Deputy Clerk
Eddie Bailes, Assistant County Manager
Chris Green, Tax Administrator
Bill McCarter, Planning Director
Alexis Pearson, Human Resources Director
Other individual names on file in the Clerk's Office

CALL TO ORDER

Chairman Johnny Hutchins called the meeting to order. Planning Director Bill McCarter led the audience in the "Pledge of Allegiance" to the flag of the United States of America. Commissioner Ronnie Hawkins provided the invocation for the meeting.

AGENDA ADOPTION

ACTION: Ronnie Hawkins 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:*

11. **PROCLAMATION – CELEBRATING THE 100TH ANNIVERSARY OF THE TOWN OF BOILING SPRINGS**
12. **CLOSED SESSION TO DISCUSS A PERSONNEL MATTER**

CONSENT AGENDA

APPROVAL OF MINUTES

There being no corrections, additions, or deletions to the Minutes of **August 2, 2011**, motion was made by Mary Accor, seconded by Ronnie Hawkins, and unanimously adopted by the Board, to **approve the minutes as written.**

ECONOMIC DEVELOPMENT: BUDGET AMENDMENTS (BNA #004)

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

<u>Account Number/Project Code</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
010.492.4.350.00/0REDC-2012	ED/State Grants	\$360,000.	
010.492.4.991.00/0REDC-2012	ED/Fund Bal Approp	10,800.	
010.492.5.490.00/0REDC-2012	ED/Professional Services	10,800.	
010.492.5.700.00/0REDC-2012	ED/ Grants	360,000.	

Explanation of Revisions: To budget grant funds awarded from the NC Rural Center for the Building Reuse at Ultra Machines. The county will match in-kind and contractual administrative funds for the project.

PUBLIC HEARINGS

TRANSPORTATION ADMINISTRATION OF CLEVELAND COUNTY (TACC): RURAL OPERATING ASSISTANCE PROGRAM (ROAP) APPLICATION

Bob Davis, Executive Director of TACC presented the ROAP Application to Commissioners. This year TACC will be requesting a total of \$201,139. The application contains various programs including: Elderly & Disabled Transportation Assistance Program (EDTAP), Employment Transportation Assistance Program and Rural General Public (RGP).

The period of performance for Rural Operating Assistance Program funds is July 1, 2011 through June 30, 2012. The FY12 ROAP individual program totals are:

PROGRAM	TOTAL
EDTAP	\$89,020
EMP	\$47,352
RGP	\$65,000
TOTAL	\$201,139

Chairman Hutchins declared the public hearing open.

Hearing no comments, Chairman Hutchins closed the public hearing (*Notice of this hearing was accomplished in accordance with General Statutes, with a legal advertisement published in The Star.*)

ACTION: Ronnie Hawkins made the motion, seconded by Mary Accor, and unanimously adopted by the Board, *to approve the Rural Operating Assistance Program (ROAP) application as presented by Mr. Davis (copy found on Page _____ of Minute Book _____).*

PLANNING DEPARTMENT: ZONING MAP AMENDMENT – PHILLIP MCCRAW (Case #11-07)

Bill McCarter, Planning Director presented a petition from Phillip McCraw requesting a zoning map amendment from Residential (R) to Neighborhood Business (NB) for approximately 0.77 acres on Bachelor Rd., located about a half mile off of Highway 150 near the state line south of Boiling Springs.

The area is currently residential with some businesses located on Highway 150.

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

Jim Edwards, Planning Consultant, Isothermal Planning and Development Commission: APPROVE

I have reviewed the zoning map amendment request from Mr. McCraw and visited the property. The current zoning is R-Residential and the requested zoning is NB-Neighborhood Business. The current use of the property is indicated as a custom cabinetry shop, which makes it a nonconforming use in the Residential district. The surrounding land uses in the immediate vicinity include a mix of low-density residential and agricultural. There are several commercial uses approximately ½ mile away along NC 150.

The current use would continue to be nonconforming under the proposed NB district. However, the permitted limited retail and services uses allowed in the NB district seem to be as appropriate for this property as the current use.

The Future Land Use Plan identifies the area as rural residential. In addition to traditional residential uses, this designation includes “a limited amount of commercial and other non-residential uses that would blend in well in a rural setting”. The requested rezoning, especially in light of the current use, would appear to be consistent with the Land Use Plan.

One concern I noted is that adoption of the requested map amendment might be subject to a challenge as spot zoning since it would affect only a single parcel.

Planning Board Recommendation: APPROVE

The Planning Board voted 9-0 to recommend that the rezoning be approved.

2015 Land Use Plan

This area was designated as Rural Residential, and therefore would be consistent with the 2015 Land Use Plan.

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

The applicant appears to have the support of the neighbors.

Surrounding Properties

The area is in a rural part of our county, and comprised primarily of large agricultural tracts. Several home based businesses are also located in this area.

Non-Conforming Uses

No non-conforming uses.

Chairman Hutchins opened the public hearing (*Notice of this hearing was accomplished in accordance with General Statutes, with a legal advertisement published in The Star.*)

Hearing no comments, Chairman Hutchins closed the public hearing.

Chairman Hutchins 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
0.768 acres on Bachelor 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, Phillip H. McCraw presented a petition to amend the Cleveland County Zoning Map at 1928 Batchelor Road, Parcel #53708 from Residential (R) to Neighborhood Business (NB); and

WHEREAS, the Cleveland County Planning Board found this parcel was classified as “Rural Residential” 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, in that the applicant appears to have the support of the neighbors; and

WHEREAS, in accordance with NCGS 153A-343, a public hearing was held by the Cleveland County Board of Commissioners on September 6, 2011, and legal notices published on August 19 and September 2, 2011 and a sign posted on August 17, 2011 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 53708, from Residential (R) to Neighborhood Business (NB) as illustrated on the attached map designated "Case 11-07", and being incorporated herein by reference and made part of this ordinance.

BEGINNING at an unmarked point in the center line of the right of the right-of-way for Batchelor Road, said the beginning point be located South 53-58-47 East 331.09 feet from a Pk nail in the intersection of Batchelor Road and Timber Drive; and runs thence three new lines through the W.J. McCraw property as follows: (1) North 66-41-28 East (passing an iron at 31.00 feet to an iron; (2) South 23-18-30 East 125.00 to an iron; (3) South 66-41-30 West (passing an iron at 226.33 feet) 256.62 feet to a point in the center line of the road; thence with the center line of the right-of-way of the road the following three (3) calls: (1) North 31-23-15 West 30.46 feet to a point; (2) North 33-41-45 West 49.72 feet to a point; (3) North 37-32-02 West 47.38 feet to a place of beginning.

This Ordinance shall become effective upon adoption and approval.

Adopted this 6th day of September, 2011 at 6:00 p.m.

PLANNING DEPARTMENT: ZONING MAP AMENDMENT – CLEVELAND COUNTY
(Case #11-08)

Bill McCarter, Planning Director presented a petition from staff requesting a zoning map amendment from Residential (R) to Heavy Industrial (HI) for approximately 14 acres along Highway 180, currently the site of Spake Concrete. Mr. McCarter explained, Spake Concrete has been in business for over 50 years and was missed when countywide zoning was adopted. In order for Spake Concrete to be conforming, this property will need to be rezoned.

The area east of NC180 is currently industrial on the 2015 Cleveland County Land Use Plan. Several industrial uses are located in the area, such as Case Farms, Morgan Company and the Cleveland County Landfill. The Shelby ETJ is just across NC180 and this area remains residential.

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

Jim Edwards, Planning Consultant, Isothermal Planning and Development Commission: APPROVE
The proposed rezoning from Residential (R) to Heavy Industrial (HI) is consistent with current use and the 2015 Future Land Use Plan. In addition, the location of the property along a rail corridor makes an industrial classification even more appropriate.

Planning Board Recommendation: APPROVE

The Planning Board voted to recommend that the rezoning be approved.

2015 Land Use Plan

This area was designated as Industrial on the 2015 Land Use Plan, and therefore would be consistent with the plan.

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

The business has been in existence for over 50 years at this location.

Surrounding Properties

Several large industrial properties are in this area including the County Landfill.

Non-Conforming Uses

No non-conforming uses.

Commissioner Hutchins asked about the property located behind Spake Concrete and suggested that Commissioners may want to rezone that to Heavy Industrial also. Mr. McCarter explained, "The property could not be rezoned tonight because that area was not advertised as part of this case."

Chairman Hutchins opened the public hearing (*Notice of this hearing was accomplished in accordance with General Statutes, with a legal advertisement published in The Star.*)

Dan Spake, Spake Concrete, spoke in favor of the rezoning stating that until they looked into a possible expansion, he did not know that the property was zoned Residential. Mr. Spake informed Commissioners, the pine trees located on the property behind Spake Concrete are currently in a government program. He would like to keep that parcel zoned Residential.

Hearing no other comments, Chairman Hutchins closed the public hearing.

Chairman Hutchins 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 Approximately 13.67 acres at 1110 North Post Road Residential (R) to Heavy Industrial (HI)

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, Cleveland County is requesting a Zoning Map amendment at 1110 North Post Road, Parcel #24464 from Residential (R) to Heavy Industrial (HI); and

WHEREAS, the Cleveland County Planning Board found this parcel was classified as "Industrial" on our 2015 Future Land Use Plan, and the Heavy Industrial zoning district would be consistent with the comprehensive plan; and

WHEREAS, the Cleveland County Planning Board found the amendment to be reasonable, in that the business has been in existence for over 50 years at this location; and

WHEREAS, in accordance with NCGS 153A-343, a public hearing was held by the Cleveland County Board of Commissioners on September 6, 2011, and legal notices published on August 19 and September 2, 2011 and a sign posted on August 17, 2011 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 24464, from Residential (R) to Heavy Industrial (HI) as illustrated on the attached map designated "Case 11-078, and being incorporated herein by reference and made part of this ordinance.

Tract one

BEGINNING on a stake in the center of Highway No. 180, Southwest corner of Dever Greene's property, and runs thence with the Greene South line, North 75 East 475 feet to an iron stake; thence

North 61-30 East 116 feet to a stake, a new corner; thence a new line through the George Wesley Spake property, South 15 East 247.1 feet to an iron stake, another new corner; thence another new line through the Spake property; South 75-15 West 590 feet to a stake in the center of Highway No. 180; thence with the center of said highway, North 14 West 220 feet to the place of BEGINNING. Containing 3 acres, more or less, according to a survey and plat made by J.D. Turner, Registered Surveyor on July 27, 1963.

Tract two

BEGINNING on an iron in the center of the right-of-way for North Carolina Highway No. 180 (with said iron being located North 14-24-55 West 379.89 feet from the center of the bridge over the center of the railroad tracks, said iron being a new corner in the Spake property; and runs thence with the center of the right-of-way for North Carolina Highway No. 180, North 14-43-28 West 190 feet to an iron, Southwest corner of Bobby Spake (located South 14-43-28 East 220 feet from the Northwest corner of Bobby Spake; thence with the South line of Bobby Spake, North 74-49-17 East 590 feet to an iron set in the field; thence North 15-15-58 West 247.10 feet to an iron set in the field, Northeast corner of Bobby Spake tract described by deed of record in Book 10-N at Page 62 of the Cleveland County Registry; thence North 61-30 East 42.79 feet to an iron set in the field, a new corner (located South 61-30 West 529.08 feet from an existing iron in the property line); thence in two new lines through the George W. Spake property, South 15-15-58 East 446.95 feet to an iron set in the field; thence South 74-49-17 West 633.45 feet (passing over an iron set in the line at 603.45 feet) to the place of BEGINNING, containing 3 acres, according to a plat and survey by T. Scott Bankhead, dated July 19, 1986.

Tract three

BEGINNING on a stake, being a Northwest corner of Bobby I. Spake, and in the South line of Dever Greene; and runs thence with Greene's line, North 61-30 East 97.66 feet to a stake, a new corner in George Spake's property; thence a new line through Spake's property, south 15-15-58 East 469.45 feet to a stake another new corner in George Spake's property; thence another new line, South 74-49-17 West 95.07 feet to a stake, Northeast corner of Bobby Spake property; thence with his East line, North 15-15-58 West 446.95 feet to the place of BEGINNING, containing one acre, more or less, according to a survey and plat by Scott Bankhead, RLS.

Tract four

Lying in Number Six (6) Township, being approximately 19 ½ acres, and being bounded on the North by Dever Green, on the South by Seaboard Airline Railroad, on the West by other property of the grantees, and being the same property conveyed in Book 6-N, page 365, excepting, however, those tracts previously conveyed in Book 10-N, Page 62; Book 19-M, Page 569; Book 1044, Page 202; and that approximate six (6) acre tract conveyed of even date herewith.

Tract five

Property is located East of the City of Shelby, on the East side of North Post Road, bounded on the North by remaining property of Annie Greene, and on the South by other property of Bobby Spake, and being all of the .666 acre parcel as shown on a plat for Bobby I. Spake recorded in Book 26 at Page 6 of the Cleveland County Registry. Reference is hereby made to said recorded plat for a metes and bounds description of the property conveyed herein.

This Ordinance shall become effective upon adoption and approval.

Adopted this 6th day of September, 2011 at 6:00 p.m.

ABANDONMENT OF RIGHT OF WAY- BANKS ROAD

NCDOT has requested the abandonment of approximately 0.036 miles of public right-of-way at the end of Banks Road. This is only the portion of right-of-way extending into Claude Falls farm. Mr. Falls would like to put up a gate at his property line. Mr. McCarter explained, should Commissioners approve this abandonment, the NCDOT will require a turn around to be constructed as part of the project. At their August 16, 2011 regular meeting, Commissioners adopted a resolution of intent for this project. In accordance with NCGS 153A-21, advertisements were made in the *Shelby Star* on August 19th, 26th and September 2, 2011.

Should Commissioners adopt the final resolution, aggrieved parties will have thirty days to appeal.

Chairman Hutchins opened the public hearing.

Amy Riley, property owner on Largo Road, is concerned with vehicles being unable to access the turn at the end of road should the right of way be abandoned. "I don't want people turning around in my driveway. I am concerned with buses, ambulances and snow plows having a place to turn around."

Lee Downs, property owner on Largo Road, is concerned that a right of way may be built where he currently has his garden planted.

Claude Falls, property owner requesting the road closing, explained the purpose of this road closing is to secure Mr. Falls property from animals, four-wheelers and trespassers. He has met with the NCDOT to discuss what was appropriate in order to provide a turnaround should the road be closed. A 20 foot turnaround will be placed down the road a short way and will be paid for by Mr. Falls.

Hearing no other comments, Chairman Hutchins closed the public hearing.

Chairman Hutchins called for discussion among Commissioners.

ACTION: Ronnie Hawkins made the motion, seconded by Jason Falls and unanimously adopted by the board, *to table the decision until the next meeting on September 20, 2011. Commissioners instructed Mr. McCarter to provide them with a map from the NCDOT detailing the turn around.*

PLANNING DEPARTMENT: CODE TEXT AMENDMENT – FINES FOR ZONING CODE VIOLATIONS (Case #11-09)

Chairman Hutchins requested staff develop a graduated scale of fines to address frequent violations of the code, and to give staff the authority to revoke a conditional use permit. Currently, a zoning violation is limited to a fine of \$50. The new schedule would start out at \$50 for the first offense, but increase to \$100 for the second and \$500 for each additional offense on the same property. This code text amendment was modeled after the City of Shelby Code.

This amendment will give staff the ability to revoke a Conditional Use Permit, if the property owner is found to be in violation of one or more of the conditions required by the Board of Adjustment. Currently, if a violation is found, staff needs to schedule a meeting of the Board of Adjustment and ask them to revoke the permit. The amended text is as follows (recommended amendment underlined):

Sec. 12-94. Penalties and remedies for violations.

(a) Penalties. Any person who violates any provisions of this ordinance shall be subject to assessment of the maximum civil penalty allowed by law. ~~Violations of the provisions of this chapter or failure to comply with any of its requirements including violations of any conditions and safeguards established in connection with grants of variances or conditional use permits, shall constitute a misdemeanor, punishable by a fine of up to fifty dollars (\$50.00), or a maximum thirty (30) days imprisonment, or both.~~

(b) Any act constituting a violation of the provisions of this chapter or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or conditional-use permits, shall also subject the offender to the following civil penalties:

First Citation = \$50.00

Second Citation = \$100.00

Third and subsequent citations = \$500.00

a civil penalty of twenty-five dollars (\$25.00). If the offender fails to pay this penalty within ten (10) days after being cited for a violation, the penalty may be recovered by the county in a civil action in the nature of a debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with section 12-93 and did not take an appeal to the Board of Adjustment within the prescribed time.

- (c) This chapter may also be enforced by an appropriate equitable action.
- (d) Each day that any violation continues after notification by the administrator that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.
- (e) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this chapter.
- (f) Building permits required pursuant to G.S. 153A-357 and/or G.S. 160A-417 may be denied for lots that have been illegally subdivided. In addition to other remedies, the county may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct or abate the violation, or to prevent any illegal act or conduct.

Sec. 12-95. Permit Revocation.

- (a) A zoning, sign, or conditional-use permit may be revoked, by the administrator ~~permit-issuing authority~~ (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this chapter, or any additional requirements lawfully imposed by the permit-issuing authority.
- (b) Before a conditional-use permit may be revoked, all of the notice and hearing and other requirements of article VII shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.
 - 1. ~~The burden of presenting evidence to authorize the permit-issuing authority to conclude that a permit should be revoked for any of the reasons set forth in subsection (a) shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.~~
 - 2. ~~A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.~~
- (c) Before a ~~zoning or sign~~ permit may be revoked, the administrator shall give the permit recipient ten (10) days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to appeal to the Board of Adjustment on the allegations. If the permit is revoked, the administrator shall provide to the permittee a written statement of the decision and the reasons therefore.
- (d) No person may continue to make use of land or buildings in the manner authorized by any zoning, sign, or conditional-use permit after such permit has been revoked in accordance with this section.

(Amd. of 2-05-08; Amd. of 4-1-08, § 29)

State Law Reference

§ 14-4. Violation of local ordinances misdemeanor.

- (a) Except as provided in subsection (b), if any person shall violate an ordinance of a county, city, town, or metropolitan sewerage district created under Article 5 of Chapter 162A, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00). No fine shall exceed fifty dollars (\$50.00) unless the ordinance expressly states that the maximum fine is greater than fifty dollars (\$50.00).
- (b) If any person shall violate an ordinance of a county, city, or town regulating the operation or parking of vehicles, he shall be responsible for an infraction and shall be required to pay a penalty of not more than fifty dollars (\$50.00).

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

Jim Edwards, Planning Consultant, Isothermal Planning and Development Commission: APPROVE

The recommended text amendment to impose a graduated penalty for violations is consistent with actions taken by numerous other local governments in an effort to encourage property owners to make needed corrections following issuance of an Ordinance violation. In many jurisdictions, the penalty fines for violations have not been revised in many years and have become artificially low due to inflation. Violators often determine that it is cheaper to pay a low fine than to correct the violation. The graduated penalties proposed in the amendment would increase the incentive to correct violations in a timely way.

The proposed transfer to staff of the authority to revoke a Conditional Use Permit is appropriate, since such actions are likely to be administrative in nature as opposed to the setting of conditions, which is more in the nature of policy or interpretation, and therefore determined by the Board of Adjustment

Cleveland County Planning Board, DENY/APPROVE

Section 12-94. Penalties

The Planning Board voted unanimously to recommend that graduated fines be *delayed* until the volume of citations increased, requiring additional enforcement staff. The increase in fines could then help offset additional staff costs.

Staff indicated that fines have been assessed in only two cases since 2000. In both cases, the court settled for a reduced judgment in order to abate the violation.

Section 12-95. Permit Revocation

The Planning Board voted 8-1 to recommend the amendment be **approved** with the following modification:

(c) Before a permit may be revoked, the administrator shall give the permit recipient 15 days notice of intent to revoke the permit.

Chairman Hutchins opened the public hearing. (*Public notice of this hearing was accomplished in accordance with the mandates of NCGS 153A-343, with legal advertisements published in the Star on August 19 and September 2, 2011.*)

Hearing no comments, Chairman Hutchins declared the public hearing closed.

ACTION: Jason Falls made a motion, seconded by Eddie Holbrook and unanimously adopted by the board, *to approve the text amendment as presented by Mr. McCarter (see above).*

REGULAR AGENDA

RESOLUTION: CHANGE IN REGULAR MEETING SCHEDULE OF SEPTEMBER 20, 2011

Several times a year, Commissioners take their meetings out into the community to serve those who are unable to attend a regular meeting in Shelby. Per General Statute 153A-40, any change in meeting date must be approved by resolution.

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

NUMBER 20-2011

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, September 20, 2011** from the Commission Chamber in the County Administrative Building to meet at Palmer Grove Baptist Church located at 1606 Kingston Road, Kingstown. 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 SEPTEMBER, 2011.

RESOLUTION: SUPPORT OF FIREFIGHTERS WEEK

In honor of the events of September 11, 2001, Chairman Hutchins asked Commissioners to adopt a resolution supporting Firefighters Week.

ACTION: Mary Accor made the motion which was seconded by Jason Falls and unanimously adopted by the board, *to adopt the following resolution:*

NUMBER 21-2011

**In Support of
Firefighters Week in North Carolina**

WHEREAS, Fighting fires is one of the most hazardous professions, requiring physical strength, stamina, extensive training, courage and selfless concern for the welfare of others; and

WHEREAS, firefighters provide valuable services to Cleveland County; and

WHEREAS, firefighters make sacrifices to protect the lives and financial interests of the citizens of Cleveland County; and

WHEREAS, firefighters respond to emergencies without hesitation when the call of duty arises; and

WHEREAS, firefighters work with public safety officials and law enforcement officers to protect the integrity of crime scenes, which is necessary to resolve arson cases; and

WHEREAS, many of our firefighters live in the community in which they serve which leads to a great appreciation for protecting their communities; and

WHEREAS, on May 17, 2011, the North Carolina General Assembly adopted a resolution observing the week in September each year containing September 11th as Firefighters Week in North Carolina; and

WHEREAS, it is also appropriate to recognize the duties and services that firefighters perform by observing Firefighters Week in Cleveland County; and

NOW, THEREFORE, BE IT RESOLVED, that the Cleveland County Board of Commissioners encourages citizens of this county to observe the week in September of each year containing September 11 as Firefighters Week in Cleveland County.

ADOPTED THIS THE 6th DAY OF SEPTEMBER, 2011.

RESOLUTION: TOWN OF BOILING SPRINGS CENTENNIAL CELEBRATION

On September 17, 2011, the Town of Boiling Springs will celebrate their centennial year.

Chairman Hutchins will present a proclamation from the Cleveland County Board of Commissioners recognizing this important event.

ACTION: Ronnie Hawkins made the motion which was seconded by Jason Falls and unanimously adopted by the board, *to support the following proclamation:*

Number 05-2011

**CELEBRATING THE 100TH ANNIVERSARY OF
THE TOWN OF BOILING SPRINGS**

WHEREAS, people began to settle in this area of Boiling Springs around 1843, and

WHEREAS, it was a community gathering place; the location of many events, campaign speeches and even paying taxes, where two underground springs that measured approximately five feet across and bubbling six to eight inches above the surface were located; and

WHEREAS, with the beginning of the 20th century, Kings Mountain Baptist and Sandy Run Associations began looking for a place to build their denominational high school; and

WHEREAS, the village of Boiling Springs was very interested in Christian Education and were determined to secure the site; and

WHEREAS, the school became Boiling Springs High School (now known as Gardner-Webb University) and the boarding institution opened for business in 1905; and

WHEREAS, as the first item of business, in 1911, O. Max Gardner introduced a bill to incorporate the town which, at the time of incorporation, had a population of 250 and was a mile and a half in every direction from the bell tower which was located at the site of the original school building; and

WHEREAS, today, with a population of approximately 4,600, The Town of Boiling Springs has continued to have a small town feel with its character and charm as its greatest assets; and

WHEREAS, with a growing university as its centerpiece, the town is now home to many restaurants, stores and beautiful homes; and

WHEREAS, the Town of Boiling Springs has served the citizens of Boiling Springs and Cleveland County with dedication and distinction for the past century; and

NOW, THEREFORE, ON BEHALF OF THE CLEVELAND COUNTY BOARD OF COMMISSIONERS, I hereby congratulate **THE TOWN OF BOILING SPRINGS** on their Centennial Year and ask all citizens to celebrate the Town's many accomplishments.

SIGNED THIS THE 6TH DAY OF SEPTEMBER, 2011.

CLOSED SESSION

ACTION: Mary Accor made the motion, seconded by Eddie Holbrook, and unanimously adopted by the Board, to conduct a closed session to discuss a personnel matter, as allowed under North Carolina General Statute 143-318.11(a)(6).

Chairman Hutchins reconvened the meeting in open session.

Clerk to the Board, Kerri Melton read a letter from County Manager David Dear regarding his retirement.

To the Cleveland County Board of Commissioners,

It is my intent to announce my desire to retire as Cleveland County Manager effective December 31, 2011. I have enjoyed my tenure as your manager and together we have moved our community forward during some very trying economic times. The time has come for me to move into the next phase of my life and for Cleveland County to transition to a new Management Team. I will make myself available both before and after retirement to help our County Government be prepared for the challenges that lie ahead.

I am proud to have served with a group of elected leaders who have tremendous vision toward the future and the strength of character to carry out that vision. I will leave behind a highly trained and very dedicated staff of Department Heads who will serve you well.

Thank you for all of your support over the years. I wish you all the best in your future endeavors and I will always cherish your friendships and the guidance you have given me.

Sincerely,

David Dear

On behalf of the board, Chairman Hutchins thanked Mr. Dear for his service. He made note of the many accomplishments of Mr. Dear including bringing \$2,825,000,000 worth of tax base and 2,321 new jobs to Cleveland County over the last few years.

RECESS TO RECONVENE

There being no further business to come before the Board at this time, Mary Accor made the motion, seconded by Jason Falls, and unanimously adopted by the Board, ***to recess to reconvene to Wednesday, September 14, 2011 at 4:30 p.m. in the Commissioners Chamber to discuss the direction of the board in lieu of County Manager Dear's retirement.***

*Johnny Hutchins, Chairman
Cleveland County Board of Commissioners*

*Kerri Melton, County Clerk
Cleveland County Board of Commissioners*