

CLEVELAND COUNTY BOARD OF COMMISSIONERS

April 1, 2008

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
Eddie Holbrook, Vice-Chairman
Mary S. Accor, Commissioner
Ronald J. Hawkins, Commissioner
Johnny Hutchins, 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
Joe Lord, EMS Director
Marti Glaser, 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. Preacher Richard Stroupe, of New Camp Creek Baptist Church provided the invocation for the meeting.

AGENDA ADOPTION

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

CITIZENS RECOGNITION

Brian Arnold, 2025 Clay Road, presented each Commissioner with information regarding the public impact of animal factories. Mr. Arnold told Commissioners that his neighbor was building a chicken farm operation a "stones throw" from his front door. He asked Commissioners what can be done, as a property owner, whose quality of life and property value will be affected.

County Manager, David Dear, informed Commissioners that the State of North Carolina does not allow the county to regulate agricultural operations on a bona-fide farm (10 acres or more). He told Commissioners, however, that Bill McCarter has emailed the local legislators to inform them of the situation.

Commissioners advised Mr. Dear to ensure that the chicken house owners are meeting state guidelines and also to contact Case Farms regarding placement of chicken houses.

CONSENT AGENDA

APPROVAL OF MINUTES

There being no corrections, additions, or deletions to the Minutes of *March 18, 2008*, motion was made by Johnny Hutchins, seconded by Mary Accor, and unanimously adopted by the Board, to *approve the minutes as written.*

EMS DEPARTMENT: BUDGET AMENDMENTS (BNA #054)

ACTION: Johnny Hutchins made the motion, seconded by Mary Accor, and unanimously adopted by the Board, *to approve the following budget amendments:*

<u>Account Number</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
010.437.4.350.00/NCEMS-PHAR	Public Safety Grants/State Grants	\$ 3,245.	
010.537.5.230.00/NCEMS-PHAR	Public Safety Grants/Medicines	3,245.	
010.437.4.350.00/NCEMS-TRAL	Public Safety Grants/State Grants	15,000.	
010.437.5.910.00/NCEMS-TRAL	Public Safety Grants/Capital Equip.	15,000.	
010.437.4.350.00/NCEMS-SUST	Public Safety Grants/State Grants	8,000.	
010.437.5.211.00/NCEMS-SUST	Public Safety Grants/Controll Equip	2,560.	
010.437.5.910.01/NCEMS-SUST	Public Safety Grants/Cap Eq-Upgrade	3,500.	
010.437.5.210.00/NCEMS-SUST	Public Safety Grants/Dept. Supply	1,940.	

Explanation of Revisions: *To budget grants awarded from NC Office of EMS. These are passed through Charlotte-Mecklenburg Hospital Authority for the purchase of pharmaceuticals, support trailers and sustainment items.*

SHERIFF'S OFFICE: REQUEST TO AWARD SERVICE REVOLVER

ACTION: Johnny Hutchins made the motion, seconded by Mary Accor, and unanimously adopted by the Board, *to award his service revolver (Serial Number FLU-951) to Deputy Carol Garver after thirty years of service with the Cleveland County Sheriff's Office.*

SPECIAL RECOGNITION

CLEVELAND COUNTY SENIOR GAMES DAY

In honor of the Cleveland County Senior Games, Commissioners presented a proclamation naming April 14, 2008 as Cleveland County Senior Games Day. Vice-Chair Holbrook recognized Dr. Lonnie Proctor, who has been very active in the Cleveland County Senior Games, as well as a talented professor at Gardner-Webb University and accomplished athlete. The proclamation read as follows:

Number 04-2008

CELEBRATING CLEVELAND COUNTY SENIOR GAMES DAY

WHEREAS: Senior Games began in North Carolina in 1983 with a mission of creating a year-round health promotion and education program for citizens 55 years of age and above; and

WHEREAS: Cleveland County joined the North Carolina Senior Games program in 1984 with 60 senior citizens registering to participate in specific sports offered; and

WHEREAS: the adjoining counties of Gaston and Lincoln do not offer the North Carolina Senior Games program, but their senior citizens are eligible to compete in the Cleveland County Senior Games; and

WHEREAS: the Senior Games program encourages senior citizens to remain active in the arts and in sports, to renew the skills of the "wonder years," to learn new skills, and to exercise a positive outlook on life in general; and

WHEREAS: over 200 citizens will be involved in the Cleveland County Senior Games including the participants and the volunteers from Gardner-Webb University who administer the event; and

WHEREAS: the Cleveland County Senior Games is observing its twenty-third anniversary; and

WHEREAS: this is a commendable endeavor, worthy of the support and observance of all Cleveland County citizens;

NOW THEREFORE, THE CLEVELAND COUNTY BOARD OF COMMISSIONERS, does hereby proclaim April 14, 2008 as **CLEVELAND COUNTY SENIOR GAMES' DAY** in Cleveland County, and does urge the support of all our citizens for this worthwhile program.

SIGNED THIS THE 1st DAY OF APRIL, 2008.

PUBLIC HEARINGS

PLANNING DEPARTMENT: ZONING MAP AMENDMENT – BOYD, JOYCE AND JAMES TODD SPANGLER (3407 RUBE SPANGLER ROAD) (Case #08-07)

Bill McCarter, Planning Director, reviewed that the Spangler Family has presented a petition to rezone approximately 21 acres located at 3407 Rube Spangler Road from Residential (R) to Neighborhood Business (NB-CU). The proposed use is a facility to hold tractor pull events and antique tractor shows. Because this is a conditional district re-zoning, Commissioners have the ability to add conditions to the rezoning, including hours of operation, traffic, number of events per year, etc. This rezoning will be specific to antique tractor and lawnmower events.

He provided background information as follows:

Existing Land Use: The property is currently being used as a family farm. Surrounding land uses are large agricultural tracts.

Future Land Use: Residential.

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

Transportation: Rube Spangler Road is considered a minor arterial road.

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

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

My understanding is that the applicant is requesting this in order to hold tractor pull events and antique tractor shows. When I saw the wording tractor pull events, red flags went off for me. Is this the type of use that should ideally be located close to residential property? Even though the area may be sparsely populated now, what would happen if a neighbor wanted to create a residential subdivision? Would he be able to do so? Would people want to buy next to this land use? How would the County handle the noise, trash, and traffic? Since the proposal is for conditional use, I would make sure that if the proposal were approved, conditions were added that would eliminate as much of the probable complaints as possible. These might be hours of operation, number of events per year, parking, lighting, screening and buffering, refuse disposal, etc.

- Is this the best possible use of this property?
- If the rezoning is granted, will it greatly benefit the owner, or will the owner be seriously harmed if denied?
- What about the effects to the neighbors and the community at large?
- What about the effects on how things develop in the future?
- If these things were not in balance then I would deny the rezoning request.

Tom Spurling, Chairman, Cleveland County Planning Board: Approve

The Planning Board voted unanimously to recommend that the rezoning be approved. This recommendation concurs with Section 12-121, allowing limited nonresidential use in a low-density development district.

Due to the recent concerns over noise at Thunder Valley, the Board asked the petitioners to address noise impacts at these events. Mr. Spangler indicated that only “antique” tractors would be allowed, not the large modified tractors seen on television.

- Surrounding Properties are large agricultural tracts.
- Events limited to “antique tractors” only.
- Frequency: used only 3-4 times a year.
- Located well below the grade of the road along a creek to minimize any impact on the neighboring properties.
- Conditions should address: frequency of events, hours of operation, traffic, etc.

Chairwoman Boggs opened the public hearing (at 6:25 p.m.). (Public notice of this hearing was accomplished in accordance with the mandates of NCGS 153A-343, with legal advertisements published in the Star on March 21 and March 28, 2008.)

James Todd Spangler- Mr. Spangler introduced himself as the petitioner. He said that he would like the property re-zoned so he can hold antique lawnmower and tractor pulls on his property. He does not feel as though the noise will be a problem for neighbors, due to the fact that these tractors and lawnmowers will be antique. His pull will be similar to the one in Belwood and will probably be a two-day event. He is planning on no more than four events per year. All pulls will be held during the daylight hours, at this time and there will be no events held on Sundays.

Hearing no additional comments, Chairwoman Boggs declared the public hearing closed (at 6:27 p.m.).

Mr. McCarter informed Commissioners that they would need to have the conditions listed before the zoning map amendment is approved because the rezoning is a conditional use re-zoning. Commissioners discussed the different conditions that they would like to include in the zoning map amendment.

ACTION: Johnny Hutchins made the motion, seconded by Eddie Holbrook, and unanimously adopted by the Board, *to approve the rezoning as follows.*

**ORDINANCE AMENDING THE CLEVELAND COUNTY ZONING MAP
Twenty-two Acre Tract at 3407 Rube Spangler Road
Residential (R) to Neighborhood Business-Conditional Use (NB-CU)**

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, James Todd Spangler has requested an amendment to the Cleveland County Zoning Map from Residential to Neighborhood Business-Conditional Use for the proposed use of an Antique Tractor/Lawnmower Pull and Show (NAICS 71121); and

WHEREAS, the Cleveland County Planning Board reviewed the application on March 25, 2008 and found the proposed amendment to be consistent with the 2015 Land Use Plan, allowing an agricultural related event in a predominately agricultural area; and

WHEREAS, said amendment will promote the health, safety, and welfare of the citizens of Cleveland County and said amendment is beneficial to the orderly growth of Cleveland County; and

WHEREAS, in accordance with NCGS 153A-343, a public hearing was held by the Cleveland County Board of Commissioners on April 1, 2008, after publication of due notice 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 36535, and the western portion of parcel 57015, from Residential (R) to Neighborhood Business-Conditional Use (NB-CU) as illustrated on the attached map designated "Case 08-07", and being incorporated herein by reference and made part of this ordinance.

NOW THEREFORE BE IT ALSO ORDAINED that this amendment, to make use of this property for an Antique Tractor/Lawnmower Pull and Show, is hereby approved and granted, subject to all applicable provisions of the Cleveland County Code, and the following conditions found to be in the public interest by the Board of Commissioners:

1. Development and use of the site shall conform to all aspects of the site plan on file with the Planning Department, being incorporated herein by reference and made part of this ordinance.
2. Limited to antique tractors and lawnmowers only.
3. No more than four (4) events per year.
4. No more than three (3) days per event.
5. Hours of operation limited to 10pm Monday-Thursday, or midnight on Friday-Saturday.
6. No events shall be held on a Sunday.

This Ordinance shall become effective upon adoption and approval.

Adopted this 1st day of April, 2008 at 6:00 p.m.

PLANNING DEPARTMENT: CODE TEXT AMENDMENTS – COMPLIANCE WITH STATE PLANNING STATUTES (Case #06-09)

Bill McCarter, Planning Director, stated that Karen Smith, with the NC Division of Community Assistance, has reviewed the Cleveland County Code for compliance with a major overhaul of the State Planning Statutes, which became effective in 2006. Mr. McCarter presented each Commissioner with a summary of the proposed amendments (*copy found on Page _____ of Minute Book 30,*) which included a justification of each amendment.

Mr. McCarter explained that Section 12-54, included in the amendments, was requested solely by the Planning Department. Currently, the Cleveland County Planning Board reviews plats twice before final approval. The amendment of Section 12-54 would allow the Planning Department staff to give final approval. The Planning Board will approve the plat upon initial submittal, however, the Planning Department will approve the final plat.

Chairwoman Boggs opened the public hearing (*at 7:00 p.m.*). (*Public notice of this hearing was accomplished in accordance with the mandates of NCGS 153A-343, with legal advertisements published in the Star on March 21 and March 28, 2008.*)

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

ACTION: Johnny Hutchins made the motion, seconded by Eddie Holbrook, and unanimously adopted by the Board, *to approve the code text amendments as requested (copy found on Page _____ of Minute Book 30).*

REGULAR AGENDA

CLEVELAND COUNTY STEPONE CHALLENGE

Anne Short and Karma Edwards shared information regarding the Cleveland County StepOne Challenge. Commissioners were given a pedometer and asked to participate in this six week walking program. Ms. Short recommended Commissioners adopt a resolution in support of the 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.*

***Resolution in Support of
3rd Annual StepOne 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 and 2007, resulting in walking 420,241,351 steps or 210,121 miles in 2007; 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 **CLEVELAND COUNTY BOARD OF COMMISSIONERS** endorse the 2008 StepOne 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 26, 2008 and ending June 6, 2008, in response to this public health issue.

Adopted this 1st day of April, 2008

CLEVELAND COUNTY EMERGENCY MEDICAL SERVICES WRITE-OFF'S

Joe Lord, EMS Director explained that, over the years, Cleveland County EMS has utilized numerous means to collect for services rendered. In 2004, Cleveland County EMS began outsourcing collections. Mr. Lord explained that the write-off's he presented included the years 1998-2004. He also explained that all write-off's will remain in the State Debt Setoff program.

ACTION: Ronnie Hawkins made the motion, seconded by Mary Accor, and unanimously adopted by the Board, ***to approve the write-off's as presented (copy found on Page _____ of Minute Book 30).***

BOARD OF EQUALIZATION AND REVIEW MEETING SCHEDULE

ACTION: Commissioners agreed to schedule the Board of Equalization and Review meetings for, ***April 15, 2008 at 3:00 p.m. and June 3, 2008 at 3:00 p.m.***

COMMISSIONER REPORTS

Commissioner Hutchins informed Commissioners that the Chamber President, Stuart Gilbert, has resigned.

Commissioner Accor will be talking about government to a group of fourth graders at Marion School. She has developed a "fun book" to teach students about government and will be distributing a copy to each Commissioner.

Chairwoman Boggs suggested moving the May 20th Board of Commissioners meeting to Kings Mountain to encourage citizen participation.

ADJOURN

There being no further business to come before the Board at this time, Johnny Hutchins made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to adjourn the meeting (at 7:30 p.m.)*. The next regular meeting of the Commission is scheduled for *Tuesday, April 15, 2008 at 6:00 p.m.* in this Commission Chamber.

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

*Kerri Melton, Clerk
Cleveland County Board of Commissioners*