

**CLEVELAND COUNTY BOARD OF COMMISSIONERS**

**August 3, 2010**

The Cleveland County Board of Commissioners met in a regular session on this date, at the hour of 6:00 p.m., in the Commission Chamber of the Cleveland County Administrative Offices.

**PRESENT:** Jo Boggs, Chairwoman  
Johnny Hutchins, Vice-Chairman  
Mary S. Accor, Commissioner  
Ronald J. Hawkins, Commissioner  
Eddie Holbrook, Commissioner  
David C. Dear, County Manager  
Robert Yelton, County Attorney  
Kerri Melton, County Clerk  
April Crotts, Deputy Clerk  
Eddie Bailes, Assistant County Manager  
Chris Green, Tax Administrator  
Bill McCarter, Planning Director  
Alexis Pearson, Human Resources Director  
David Allen, *Shelby Star*  
Danielle Anzelone, *Cleveland Headline News*  
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. Vice-Chairman Eddie Holbrook provided the invocation.

**AGENDA ADOPTION**

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

**CONSENT AGENDA**

**APPROVAL OF MINUTES**

There being no corrections, additions, or deletions to the Minutes of *June 10, 2010, June 15, 2010, July 7, 2010 and July 13, 2010*, motion was made by Eddie Holbrook, seconded by Mary Accor, and unanimously adopted by the Board, to *approve the minutes as written.*

**NUMBER 7 VOLUNTEER FIRE DEPARTMENT BUDGET AMENDMENT**

County Manager David Dear presented a request for a budget amendment from the Number 7 Volunteer Fire Department to replace skid units on two of their brush trucks. The skid units consist of pump, booster tank, hose reel and several modifications to the trucks to meet the departments fire fighting needs. The cost of both skid units will be \$43,072.00.

**ACTION:** Eddie Holbrook made the motion, seconded by Mary Accor and unanimously adopted by a majority, *to approve the budget amendment as requested.*

**AWARD SERVICE REVOLVER- CHIEF DEPUTY DANNY GORDON**

A request was made by Sheriff Raymond Hamrick that Chief Deputy Danny Gordon be honored, after his 29 years of law enforcement service, by presenting him with his departmental service revolver. Chief Deputy Gordon served with Sheriff Costner, Sheriff McKinney, Sheriff Crawford and for eight years with Sheriff Hamrick. Chief Deputy Gordon's service weapon, which if approved will be removed from county inventory is a Glock, Model 21, .45 Caliber, serial number FLU-872.

**ACTION:** Eddie Holbrook made the motion, seconded by Mary Accor and unanimously adopted by a majority, *to present Chief Deputy Danny Gordon with his service weapon.*

**SPECIAL RECOGNITION**

**MARTEZ MASON**

Commissioners presented Martez Mason, a 7<sup>th</sup> grader at Shelby Middle School, a Certificate of Recognition for following his dreams to become a fashion designer. Commissioner Hutchins recognized Mr. Mason's mentor Eric Wright and thanked him for making a difference in the life of Mr. Mason.

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

***PRESENTED TO***

***MARTEZ MASON***

***FOR YOUR VISION TO CREATE "JU'VON" ~ FOR BELIEVING IN YOURSELF  
AND FOR MAKING IT YOUR MISSION TO TURN YOUR DREAM INTO A REALITY~  
BY TELLING YOUR STORY, FOR TEACHING OTHERS YOUR BELIEF THAT  
PERSEVERANCE, HARD WORK AND A GOOD EDUCATION WILL LEAD TO GREAT  
THINGS ~ FOR BEING AN INSPIRATION AND A POSITIVE EXAMPLE~ WE  
COMMEND YOU!***

***Presented this the 3<sup>rd</sup> day of August 2010***

**PUBLIC HEARINGS**

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

Tom Crider, TACC Director, presented a request for approval of the ROAP application. This year TACC will be requesting a total of \$241,376. The application contains various programs including: Elderly & Disabled Transportation Assistance Program (EDTAP), Employment

Transportation Assistance Program and Rural General Public (RGP). The application also includes three supplemental funds which may or may not be approved. These supplemental grants will help pay for things such as fuel costs and the need for to-work transportation. Last year, TACC provided 623,000 passenger trips. This was an 8-12% increase over last year due to the high demand in public transportation in Cleveland County. TACC recently received a grant of approximately \$230K which will be used to purchase radios, a new software package, two new vans and will provide two years worth of operating costs. Currently, TACC is working on a 5-year transportation plan. The draft plan will show additional routes which will be added to their service area over the next five-years. Mr. Crider noted the high demand for Medicaid Transportation.

The period of performance for Rural Operating Assistance Program funds is July 1, 2010 through June 30, 2011. The FY10 ROAP individual program totals are:

PROGRAM	TOTAL
EDTAP	\$67,180
EMPL	\$24,675
RGP	\$65,796
Supplemental EDTAP	\$38,725
Supplemental EMPL	\$15,000
Supplemental RGP	\$30,000
<b>TOTAL</b>	<b>\$241,376</b>

Chairwoman Boggs declared the public hearing open at 6:30 p.m. Hearing no comments, Chairwoman Boggs 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 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:** Mary Accor made the motion, seconded by Ronnie Hawkins 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 approve the Rural Operating Assistance Program (ROAP) application as presented by Mr. Crider.*

**ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT: PROJECT IFOX**

County Manager David Dear reviewed the incentive agreement for Project IFOX. He explained that this project is still very competitive and that it should not be taken for granted that this company will locate here. The company asked that this incentive agreement be adopted prior to making their final decision. Mr. Dear is expecting the company to make a decision within thirty days. The proposed project would create 17 new, permanent full-time jobs during the first four years of the Agreement. The total initial investment will be approximately \$52 Million with a potential additional indirect future investment of approximately \$158 Million. The company would be located in a 215,000 square-foot building located at 140 Riverside Court in the T-5 Data Center Park in Kings Mountain. All incentives are outlined in the incentive agreement (*copy found on Page \_\_\_\_\_ of Minute Book \_\_\_\_\_*).

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

Michael Chrisawn, Cleveland Chamber President, stated, “I feel like I am preaching to the choir.” He explained that counties need to be competitive to come out of these economic times. “With the thought in mind of creating 17 jobs and a \$52 Million investment in Cleveland County, we encourage you to approve this incentive agreement.”

Scot Dixon, Chairman of the 20/20 Economic Development Partnership, on behalf of the 20/20 Economic Development Partnership, encouraged Commissioners to approve the incentive agreement. “As we look at opportunities to improve the quality of life, approving this incentive agreement is one of those opportunities.” After researching this company, Mr. Dixon felt as though this company would be a good corporate citizen.

Roger Holland, as the past chair of the Cleveland County Chamber, Mr. Holland had the unique opportunity to see the importance of these types of projects. He has been asked several times how Cleveland County has been able to accomplish so much. Mr. Holland attributes the success of Cleveland County to partnerships and everyone working together for the good of the citizens.

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

**ACTION:** Mary Accor made the motion, seconded by Johnny Hutchins 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 Eddie Holbrook and unanimously adopted by the board, *to approve the incentive agreement for Project IFOX as presented.*

**ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT: FOX DISTRIBUTING**

Vice President of Economic Development Kristin Fletcher reviewed the incentive agreement between Cleveland County and Fox Distributing. This project would include the expansion of an existing company. Ms. Fletcher explained that this project was originally competitive. The client had to make the decision to expand at their current location or to move out of Cleveland County. The approval of this incentive package helped Fox Distributing make the decision to expand in Cleveland County.

The expansion of Fox Distributing will create approximately \$750,000 in new taxable investment over a two-year period. All details of grantor/grantee responsibilities can be found in the incentive agreement (*copy found on Page \_\_\_\_\_ of Minute Book \_\_\_\_\_*).

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

Michael Chrisawn, Cleveland Chamber President, described this project as unique as this is an existing industry. He also described existing industries as the “backbone of our economy.” Fox Distributing has been an outstanding corporate citizen. They have always put their best foot forward in the community. “We need to support them.” Mr. Chrisawn urged Commissioners to support the incentive agreement.

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

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

Commissioner Hutchins has talked for several years about supporting small businesses and encouraging expansions. “We have to look after the people we have.”

Commissioners praised Fox Distributing for their involvement in the community.

**ACTION:** Ronnie Hawkins made the motion, seconded by Eddie Holbrook and unanimously adopted by the board, *to approve the incentive agreement for Fox Distributing as presented.*

**PLANNING DEPARTMENT: CODE TEXT AMENDMENT – JAMES N. HODGES-AMATEUR RADIO TOWERS (Case #10-18)**

James N. Hodges has presented a petition to amend the County Code, to add a definition for amateur radio towers and allow these towers as a permitted use in all zoning districts with certain standards. Mr. Hodges stated in his petition that the county zoning code does not allow for “reasonable accommodation of amateur radio antennas”. Mr. Hodges prepared a text amendment for consideration by the board.

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

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

Chuck Nance referenced a document regarding North Carolina legislation passed in 2007 regarding amateur radio antennas. According to the vague law it must be permitted, but local jurisdiction can have certain limited regulations regarding the placement and height of amateur radio antennas. Mr. Nance sees no problem with the requested code text amendment, but points out that Cleveland County could also consider regulating the color, screening and buffering and making sure that the antenna is maintained so that safety is not an issue. He noted that this is the first time he has had this issue to review, however, through hazard mitigation planning, most county emergency management offices rely on these persons or clubs as back up communications in the event of a severe emergency in which all regular communications might be affected.

**David Morrow, Chairman, Cleveland County Planning Board: TABLE**

In accordance with Section 12-322 of County Code, the Planning Board voted unanimously to table any further actions regarding the code text amendment and suggested that an advisory committee be formed consisting of planning board members, amateur radio operators, and others as needed to draft an adequate text amendment.

After reviewing the proposed text amendment and hearing several different recommendations at the meeting, the Planning Board would like to see the appropriate parties come to the same consensus and draft a text amendment that will work for Cleveland County.

Ronnie Hawkins noted that this is the first time that he can remember, the Planning Board recommending tabling a request. He felt that Commissioners should agree with the Planning Board by tabling action on this code text amendment.

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

**Neal Hodges, Petitioner,** discussed his many reasons for approving the requested code text amendment.

Susan Melvin, 902 Henry Street Kings Mountain, is the appointed district coordinator for AARL. Ms. Melvin agreed with the fact that the county should have an ordinance pertaining to radio towers; however she had several suggestions about how the proposed amendment should be worded to suit the needs of all amateur radio operators.

Ben Melvin, 902 Henry Street Kings Mountain, is the amateur radio emergency coordinator for Cleveland County. He supports the request of the planning board to form a committee to review this issue further.

(Clerks Note: Could not understand citizens name) spoke in favor of the proposed code text amendment. His support is based on the fact that there is nothing in place now. He suggested that this amendment be as less restrictive as possible and hopes that the amendment could benefit all amateur radio operators.

One of the concerns of the Planning Department is the effect of radio towers on adjoining property owners should the tower fall. Mr. McCarter explained that, the ordinance, could require setbacks. If the tower could not be taller than the fall zone, there would be no liability. The ordinance, if adopted, would only apply to properties that fall into the county's jurisdiction and in those municipalities that have adopted the Cleveland County Zoning Code.

Commissioner Accor suggested that a reasonable turnaround time be given for this committee. Mr. McCarter suggested that the committee bring back, to Commissioners, a proposed ordinance by their first meeting in October.

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

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

**ACTION:** Ronnie Hawkins made the motion, seconded by Johnny Hutchins and unanimously adopted by the board, *to table this decision until the first meeting in October after a committee has been established, met and developed a revised text amendment that would suit the needs of all of all Cleveland County Amateur Radio operators.*

## **REGULAR AGENDA**

### **BID AWARD FOR CONSTRUCTION OF THE LEGRAND CENTER**

Bids were recently received on construction of the Legrand Center. Bids came in higher than expected. Roger Holland, Architect, was asked to work with the low bidder to reduce the amount of the bid to fall more in line with the estimated cost of construction. Mr. Holland worked with the

General Contractor as well as vendors and subcontractors to lower the cost by approximately \$2 Million without losing the essence of the impact this facility will have on the county and the region. Vendors and subcontractors gave voluntary deductions of material and installation costs to ensure that this project moved forward. Some modifications included the materials of finishing and the reduction in sidewalk width of one foot. Roger Holland recommended Commissioners accept the revised low bid from Matthews Construction of \$18,724,282.

Commissioner Hawkins thanked Roger Holland and his staff for their hard work. “This project will be a prize for Cleveland County. The venue will be something that everyone across the state will enjoy and appreciate.”

Commissioners again noted the fact that three governmental agencies came together to make this project happen. They also noted that, by working together, we can achieve great things.

**ACTION:** Mary Accor made the motion, seconded by Johnny Hutchins and unanimously adopted by the board, *to accept the negotiated price with the low bidder, Matthews Construction, for construction of the LeGrand Center, contingent on said negotiated price being accepted by Cleveland Community College Foundation, Inc. and the Cleveland County Board of Education.*

#### **CLEVELAND COUNTY PLANNING BOARD APPOINTMENTS**

At the end of July, Paul Ditz submitted his resignation to the Planning Board. Over the last several months, the Planning Board has had low attendance even having to cancel one meeting due to lack of a quorum. Bill McCarter, Planning Director, began researching attendance requirements and contacted those members who had not been attending. Two members suggested that they be replaced due to health reasons, for a total of three vacancies. Mr. McCarter recommended that Commissioners appoint three members to this board. Each of these appointments will expire in December, 2010.

**ACTION:** Eddie Holbrook made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to appoint Richard Acuff, Dobbins Lattimore and Lee Roy Johnson to serve as members of this board.* Each appointment will expire in December, 2010.

#### **REFINANCING OF 2007 COMMUNICATIONS EQUIPMENT CONTRACT**

County Manager David Dear recommended Commissioners approve a refinancing of the money borrowed for the 800 MHz Communications Equipment. The refinance will save the county approximately \$20,000 per year with no re-financing costs. The current balance is \$5,200,000. There will be no extension in the loan term beyond the final payment date of December 1, 2022.



**ACTION:** Johnny Hutchins made the motion, seconded by Eddie Holbrook and unanimously adopted by the board, *to adopt the following resolution approving the refinancing of the 2007 Communications Equipment Contract.*

**Resolution Approving Refinancing of 2007 Communications Equipment Contract**

**WHEREAS:**

Cleveland County has previously entered into a financing agreement dated December 13, 2007, with Branch Banking and Trust Company (“BB&T”). Under this agreement, the County borrowed \$6,000,000 to finance the acquisition of 800 MHz communications equipment, including communications towers and handheld radios.

BB&T has agreed to reduce the interest rate on the 2007 financing from an annual rate of 3.93% to an annual rate of 3.46%. This resolution provides the County’s approval of the refinancing.

**BE IT THEREFORE RESOLVED by the Board of Commissioners of Cleveland County, North Carolina, as follows:**

**1. *Determination To Proceed with Refinancing*** – The County determines to refinance its obligations under the 2007 agreement with BB&T.

The Board authorizes and directs the County Manager and the County Finance Officer to act on the County’s behalf and execute and deliver all appropriate documents (the “Documents”) for the proposed refinancing. It is the Board’s understanding that the Documents will be in forms acceptable to the North Carolina Local Government Commission, and substantially similar to those used by the Bank in similar refinancings provided to other North Carolina local governments.

The execution and delivery of any Document by an authorized officer will be conclusive evidence of his approval of the final form of such Document. The Documents in final form, however, must be consistent with the financing plan described in this resolution and must provide (a) for no increase in the principal loan balance outstanding (which is currently \$5,200,000), (b) for no extension in the loan term beyond the current final payment date of December 1, 2022, and (c) for a new annual interest rate not to exceed 3.46% (in the absence of default, or a change in tax status).

**2. *Authorization to Finance Officer To Complete Closing*** – The Board authorizes and directs the Finance Officer to hold executed copies of all financing documents authorized or permitted by this resolution in escrow on the County's behalf until the conditions for their delivery have been completed to such officer's satisfaction, and thereupon to release the executed copies of such documents for delivery to the appropriate persons or organizations.

Without limiting the generality of the foregoing, the Board specifically authorizes the Finance Officer to approve changes to any Documents, agreements or certifications previously signed by County officers or employees, provided that such changes do not conflict with this resolution or substantially alter the intent from that expressed in the form originally signed. The Finance Officer’s authorization of the release of any such document for delivery will constitute conclusive evidence of such officer’s approval of any such changes.

**3. *Miscellaneous Provisions*** -- All County officers and employees are authorized and directed to take all such further action as they may consider necessary or desirable in furtherance of the purposes of this resolution. All such prior actions of County officers and employees are ratified, approved and confirmed. Upon the absence, unavailability or refusal to act of the County Manager or the Finance Officer, the other of such officers or the Board’s Chair may assume any responsibility or carry out any function assigned in this resolution. All other Board proceedings, or parts thereof, in conflict with this resolution are repealed, to the extent of the conflict. This resolution takes effect immediately.

**COMMISSIONERS REPORTS**

*Chairwoman Jo Boggs*

Chairwoman Boggs shared information about the Famers Market Foodshare program. If vendors have extra produce or if someone would like to donate produce, it can be brought to a tent uptown where the food is then distributed to the needy.

Calvin Hastings has signed an employment contract to be the next manager of the Cleveland County Fair.

Chairwoman Boggs attended the Cleveland County Travel Council meeting. At the meeting, Jackie Sibley spoke regarding visitors to Cleveland County. She said that, in the last eleven weeks, there have been 378,000 visitors to Shelby City Park. She also noted an 11% increase in tourism since November.

#### Vice-Chair Hutchins

A gun show was recently held at the old Walmart building in Shelby. Mike Kent, Gun Show Organizer, described the event as a “home run”. It was the largest first-time event in his 20 year history. There were 4,188 paid attendees. Commissioner Hutchins used the gun show as a way to promote a proposed public gun range. He felt as though the public accepted the idea really well with the exception of only a few. A poll was conducted in the Shelby Star regarding the proposed gun range. Results showed 87 percent in favor and 13 percent against a public gun range in Cleveland County. Drawings have been completed on the proposed range. Commissioner Hutchins would like to possibly bring it before the entire board in September or October for a formal proposal.

#### Mary Accor

Commissioner Accor finished her term on the NACo Board of Directors. She shared that the state is studying consolidating administrative functions of DSS. Commissioner Accor voiced concern for this due to the negative effects that consolidation has had on Mental Health.

#### Eddie Holbrook

Mark Sorrells, Vice-President of the Golden Leaf Foundation visited Cleveland County and spent time reviewing grants for the Fire College and the Nursing Program at Cleveland Community College. Commissioner Holbrook quoted him, “I don’t know what you are doing but you are raising the bar for everywhere else I go.”

Commissioner Holbrook will be visiting Spokane Washington to watch this year’s American Legion World Series. He gave his “hats off” to Commissioner Hutchins for his hard work in making the gun show a huge success.

#### Ronnie Hawkins

Commissioner Hawkins flew local businessman Frank Stewart to Goldsboro to explore opportunities for new business. He also flew representatives from Southern Power over their construction site to take pictures of the progress.

Commissioners took a moment to pray for the family of Eddie Herndon who died unexpectedly.

**ADJOURN**

There being no further business to come before the Board at this time, Johnny Hutchins made the motion, seconded by Eddie Holbrook, and unanimously adopted by the Board, to adjourn. The next regular meeting will be held *on Tuesday, August 17, 2010 at 6:00 p.m.* in this 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*