

CLEVELAND COUNTY BOARD OF COMMISSIONERS

August 4, 2009

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*
Nicholas Bissette, *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: 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.*

CONSENT AGENDA

LIBRARY: BUDGET AMENDMENT (BNA #005)

ACTION: Ronnie Hawkins made the motion, seconded by Johnny Hutchins, 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>
010.611.4.991.00	Library/Unbud. Snoddy Donations	\$ 400.	
010.611.5.790.06	Library/Snoddy/Young Donations	400.	

Explanation of Revisions: The administrator of this gift fund is requesting to spend \$400 more than was originally budgeted in this account. The money is available in the unbudgeted account for this donation.

LIBRARY: BUDGET AMENDMENT (BNA #006)

ACTION: Mary Accor 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>
010.611.4.510.00	Library/Departmental Fees	\$ 8,000.	
010.611.5.420.00	Library/Contracted Services	8,000.	

Explanation of Revisions: The revenue account needs to be increased to reflect the additional fines being paid to the debt collection service we have contracted with. The monthly invoices will be paid from Contracted Services.

LIBRARY: BUDGET AMENDMENT (BNA #007)

ACTION: Mary Accor 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>
010.611.4.310.00/45310-EZEQ	Library/Federal Grants	\$ 8,400.	
010.611.5.211.00/45310-EZEQ	Library/Library Books	8,400.	

Explanation of Revisions: To budget grant awarded from the Federal Institute of Museum and Library Services for LSTA Basic Equipment Grant. The local match is required in the amount of \$1,350.

LIBRARY: BUDGET AMENDMENT (BNA #008)

ACTION: Mary Accor 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>
010.611.4.310.00/45310-EZST	Library/Federal Grants	\$17,020.	
010.611.5.211.01/45310-EZST	Library/Library Books	17,020.	

Explanation of Revisions: To budget grant awarded from the Federal Institute of Museum and Library Services for LSTA Strengthening Public and Academic Library Collections Grant. The local match is required in the amount of \$4,255.

PUBLIC HEARINGS

PLANNING DEPARTMENT: ZONING MAP AMENDMENT – BRIAN K. WESS (Case #09-05) (2718 POLKVILLE ROAD)

Bill McCarter, Planning Director advised that Brian K. Wess has presented a petition to rezone a property at 2718 Polkville Road from Restricted Residential (RR) to General Business Conditional Use (GB-CU). The proposed use is an Automotive Repair Garage. Mr. McCarter presented information about the property.

Zoning Overlay Districts- Auto Repair Garage is not a permitted use in the corridor.

Watershed Overlay District- WSIV requires a minimum of one acre, this parcel is 0.56 acres and considered non-conforming since it was created in 1962.

The background on the property is follows:

Existing Land Use: The property is currently vacant

Future Land Use: Commercial / Restricted Residential

Utilities: Public water provided by CCWD

He also reviewed the following recommendations from the Planning Board and the Isothermal Planning & Development consultant:

Isothermal Planning – APPROVE Based upon the review of the information and a site visit, the following is noted: The property is currently vacant but is located in an area that is developed both residentially and commercially. The intersection at West Zion Road is developing as a commercial node and the property adjacent to the proposed site is an existing non-conforming truck and heavy equipment sales and service use. There are several convenience stores along NC 226 with some industrial mixed uses. The rest is either vacant or residential. Based upon the future land use projected as either commercial or restricted residential. The existing land use has developed as mixed. We believe that you could (not should) rezone the property to some sort of commercial. The conditional use zoning would be beneficial in order to put this proposal through a more extensive process and possibly put other pertinent requirements or conditions on the proposal. Other conditions or requirements could be: hours of operation; landscaping; and buffering, etc...

Planning Board – APPROVE The Planning Board voted unanimously to recommend that the rezoning be approved. In 2005, NCGS 153A-341 was amended to require that the planning board review include written comments on the consistency of each amendment with the Land Use Plan and any other relevant plans. The Board must also explain why the action is “reasonable and in the public interest”.

Consistent with the 2015 Land Use Plan

This section of NC226 is designated as future commercial.

Limited commercial uses are permitted within the Corridor Protection District, but auto repair is not one of those permitted uses.

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

Due to the current economic situation of the county, new business should be encouraged.

Conditions

The Board recommended that the hours of operation be limited to Monday-Saturday 7am - 6pm.

Other requirements of the Corridor Protection District that must be met:

- One driveway access point
- 60% of parking in the rear
- Dumpster located in the rear
- Sign standards
- Type B screening

Adequate Utilities & Roads

NC 226 is classified by NCDOT as a major collector street, no improvements planned.

Public water provided by CCW, but no public sewer.

Chairwoman Boggs opened the public hearing at 6:10 p.m. (Notice of this hearing was accomplished in accordance with NCGS 153A-343, with legal ads published in the Star on July 15th and July 22, 2009.)

Betty Buchanon 2731 Polkville Road read a prepared statement (copy can be found in the file in the County Managers Office) In summary, she spoke in opposition of the proposed conditional use rezoning stating that an auto repair business was not considered an appropriate business in the corridor protection district when county zoning went into effect. “An auto repair business was not a good idea then, and it is not a good idea now.” She discussed the other businesses and residences in the area. “We maintain our homes, mow our lawn, raise our families, grow our gardens, raise our cattle, and conduct other activities that families do.” Ms. Buchanon is concerned with the treatment of waste from an auto repair business and the possible decrease in the fair market value of her home should this rezoning be approved. Should the rezoning be approved, Ms. Buchanon stated several conditions she wanted Commissioners to consider including, parking, lighting, hours, landscaping, etc.

Brian Wess 3432 Robert Cornwell Road thanked Commissioners for the opportunity to present his case to them. Mr. Wess explained that he was born and raised in Cleveland County and would like his business to remain in Cleveland County. He has all waste from his business disposed of by Safety Clean. At his current facility, the Fire Marshall has been there to inspect. Since 2002, there have

been no complaints by his neighbors. Mr. Wess has visited all adjoining property owners and each of them has signed the petition in support of the rezoning. He stressed the fact that he keeps a tidy shop and he will be the only full-time employee with part-time employees as needed.

Hearing no further comments, Chairwoman Boggs closed the public hearing at 6:30 p.m.

Commissioners had lengthy discussion regarding the conditions of the rezoning. They discussed the conditions with the petitioner and Ms. Buchanon.

ACTION: Ronnie Hawkins made the motion, seconded by Johnny Hutchins and unanimously adopted by a majority, *to approve the zoning map amendment with the following conditions:*

- *One driveway access point*
- *60% of parking in the rear*
- *Dumpster located in the rear*
- *Comply with county sign standards*
- *Must have type B screening*
- *Hours of operation: Monday –Friday 7am-6pm Saturday 8am-4pm*

**ORDINANCE AMENDING THE CLEVELAND COUNTY ZONING MAP
2718 Polkville Road
Restricted Residential (RR) to General Business-Conditional Use (GB-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, Brian Wess, agent for the land owner Joseph G. Patterson, Jr., presented a petition to amend to the Cleveland County Zoning Map for the property at 2718 Polkville Road from Restricted Residential to General Business-Conditional Use District, to develop an Automotive Repair Business (NAICS 81110); and

WHEREAS, the Cleveland County Planning Board found the map amendment to be consistent with the 2015 Land Use Plan, and therefore recommended that the amendment be approved; and

WHEREAS, in accordance with NCGS 153A-343, a public hearing was held by the Cleveland County Board of Commissioners on August 4, 2009, 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 28198, from Restricted Residential (RR) to General Business-Conditional Use (GB-CU) as illustrated on the attached map designated "Case 09-05", and being incorporated herein by reference.

NOW THEREFORE BE IT ALSO ORDAINED that this amendment, to make use of this property for Automotive Repair, 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. Site development shall conform to the standards of the Corridor Protection Overlay District, Section 12-132, specifically but not limited to: one driveway access point, 60% of parking located in the rear, dumpster located in the rear, sign may be lighted but not flashing, Type B Screening along adjoining property lines.
3. Hours of operation shall be limited to Monday-Friday 7:00 am–6:00 pm, Saturday 8:00am-4:00pm and closed on Sunday.

This Ordinance shall become effective upon adoption and approval.
Adopted this 4th day of August, 2009 at 6:00 p.m.

COMMISSIONERS REPORTS

Ronnie Hawkins

At the last meeting Commissioner Hawkins asked for the Boards permission to request that a committee be set up to review the current animal control policy. Since then, two laws have been passed by the General Assembly. The first requires animal euthanasia to be done by a single-shot. Commissioner Hawkins believes this form of euthanasia to be the most humane. The second law requires counties to allow pet adoption from the Animal Shelter. He noted that the Health Director will still have discretion as to whether or not an animal should be adopted. However, if an animal seems healthy and they have been spayed, neutered and vaccinated, the animal should be adoptable. Commissioner Hawkins asked that the Health Department make a presentation to Commissioners when a plan has been put in place to inform the public about the new program.

Commissioner Hawkins was appointed by the School Board to serve on the Cleveland Community College Board of Trustees. On August 10th, he will be giving the School Board an update on the Community College. Also at the meeting, Commissioner Hawkins would like to speak regarding the Commissioners support of the public school system in Cleveland County. There was no opposition to his request.

The Cleveland County Sports Commission hopes to hire an Executive Director at their next full board meeting.

Eddie Holbrook

Commissioner Holbrook was proud to announce the successful ribbon cutting at the Bailey Allied Health Building at the Community College. He reminded Commissioners of the Golden Leaf Foundation meeting to be held Thursday, August 6th noting, Cleveland County has been awarded \$2 Million from the Golden Leaf Foundation to be used toward economic development and education.

Mary Accor

The Cleveland County Youth Commission will meet again after the presidents are elected from each of the four High Schools. NCACC President David Thompson will be visiting Cleveland County on Friday. Commissioner Accor also announced that she was asked to serve as an at-large board member of NACo.

Johnny Hutchins

Commissioner Hutchins commended the Economic Development Team for their hard work.

Jo Boggs

Chairwoman Boggs voiced concern over the cost of the recently mandated single-shot euthanasia. County Manager David Dear said that it would be a bit more expensive but they will be able to do some shifting to cover the cost. Funding for this program will be included in the budget for FY 2010-2011.

Several Commissioners attended a meeting with the NC Secretary of Transportation. Commissioner Boggs viewed the meeting as very positive.

ADJOURN

There being no further business to come before the Board at this time, Mary Accor made the motion, seconded by Eddie Holbrook, and unanimously adopted by the Board, to adjourn at 7:10 p.m. The next regular meeting will be held *on Tuesday, August 18, 2009 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*