

**CLEVELAND COUNTY BOARD OF COMMISSIONERS**

**August 5, 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  
Denese Stallings, Health Director  
David Allen, *Shelby Star*  
Other individual names on file in the Clerk's Office

**CALL TO ORDER**

Chairwoman Boggs called the meeting to order and led the audience in the "Pledge of Allegiance" to the flag of the United States of America. Vice-Chairman Eddie Holbrook provided the invocation.

**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 with the following deletion:*

*4) Cleveland County Sports Commission Presentation*

**CITIZEN RECOGNITION**

*Margaret Beheler Jay* read a prepared statement to the Board of Commissioners (*copy found on Page \_\_\_\_\_ of Minute Book 30.*)

**CONSENT AGENDA**

**APPROVAL OF MINUTES**

There being no corrections, additions, or deletions to the Minutes of *June 3, 2008, June 17, 2008 & July 1, 2008*, motion was made by Ronnie Hawkins, seconded by Eddie Holbrook, and unanimously adopted by the Board, to *approve the minutes as written.*

**TAX COLLECTOR'S MONTHLY REPORT**

The Tax Collector provided Commissioners with a detailed written report regarding taxes collected during *June 2008* (copy found on Page \_\_\_\_\_ of Minute Book 30).

**TAX ABATEMENTS AND SUPPLEMENTS**

The Tax Assessor provided Commissioners with a detailed written report regarding tax abatements and supplements during *June 2008*. The monthly grand total of tax abatements was listed as (\$15,170.58); and, the monthly grand total for tax supplements was listed as \$6,527.75.

**REGULAR AGENDA**

**DESTINATION CLEVELAND COUNTY UPDATE**

Chairwoman Boggs introduced Brownie Plaster, Chair of Destination Cleveland County (DCC). Mrs. Plaster presented Commissioners with a handout titled “Destination Cleveland County Update” (copy found on Page \_\_\_\_\_ of Minute Book 30.)

Mrs. Plaster read through the handout, highlighting specific topics including, a site visit by Darrell Stover of NC Humanities Council regarding Museum on Main Street exhibit, “New Harmonies: Celebrating American Roots Music.” She explained that, Mr. Stover visited Shelby and the proposed Don Gibson Theatre to evaluate the venue to house the exhibit. Should the Don Gibson theatre be chosen, this Smithsonian exhibit will be brought to Shelby in early 2010. Destination Cleveland County will find out in September whether or not the theatre has been chosen as a venue.

On June 10<sup>th</sup>, Marta Holden resigned as Executive Director of Destination Cleveland County. Brownie Plaster introduced Emily Epley as the new Executive Director. Ms. Epley explained that, volunteers have been busy working on the Oral History piece of the Scruggs Center. DCC has partnered with the UNC Chapel Hill Oral History program. There will be four UNC Scholars visiting Cleveland County to collect stories from Cleveland County residents. Interviews will be a big part of this process.

Commissioners will be visiting the archival storage facility at the former Hunter School on August 19, 2008 at 4:00 p.m.

**REGULAR AGENDA**

**HEALTH DEPARTMENT: RESOLUTION RECOGNIZING CLEVELAND COUNTY PUBLIC HEALTH DAY**

Denese Stallings, Health Director thanked Commissioners and David Dear for helping the Health Department to obtain accreditation. The Health Department is now ADA complaint. Ms.

Stallings explained that this has been a big morale booster for the staff. Commissioner Accor thanked Ms. Stallings for her leadership to drive the Health Department to this success.

**ACTION:** Johnny Hutchins made the motion, seconded by Mary Accor, and unanimously adopted by the Board, *to adopt the following resolution:*

**NUMBER 24-2008**

**RECOGNIZING AND CELEBRATING  
CLEVELAND COUNTY PUBLIC HEALTH DAY  
AUGUST 6, 2008**

*WHEREAS, the mission of the Cleveland County Health Department is to assure, enhance and protect the health of Cleveland County citizens through education and prevention; and*

*WHEREAS, the Cleveland County Health Department provides essential public health services and develops environmental approaches that lead to policy changes that improve community health; and*

*WHEREAS, citizens have access to renovated and modern public health facilities including the Cleveland County Health Department, the Cleveland County Health Department Annex, the Cleveland County Animal Shelter and the new Self/McNeilly Solid Waste Management Facility; and*

*WHEREAS, the Cleveland County Health Department achieved 100% compliance on all (148) benchmarks/standards and was awarded full Accreditation status on July 18, 2008 by the N.C. Accreditation Board.*

*THEREFORE, BE IT RESOLVED, that August 6, 2008 will be recognized as **CLEVELAND COUNTY PUBLIC HEALTH DAY** and will be celebrated by recognizing the Cleveland County Health Department's Accreditation achievement, hosting Open House for the public to visit the Cleveland County Health Department, the Cleveland County Health Department Annex, the Cleveland County Animal Shelter and dedicating the new Self/McNeilly Solid Waste Management Facility.*

**ADOPTED THIS 5<sup>TH</sup> DAY OF AUGUST 2008.**

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

**ACTION:** Johnny Hutchins made the motion, seconded by Mary Accor and unanimously adopted by the Board, *to appoint Commissioner Ronnie Hawkins to serve as voting delegate at the 2008 Annual NCACC conference.*

**CITY OF SHELBY PLANNING AND ZONING BOARD APPOINTMENT**

**ACTION:** Mary Accor made the motion, seconded by Eddie Holbrook, and unanimously adopted by the Board, *to appoint Janet Berry to serve as a member of this board, for a term of three-years, scheduled to conclude on June 30, 2011.*

**PUBLIC HEARINGS**

**PLANNING DEPARTMENT: ZONING MAP AMENDMENT – DUKE ENERGY (Case #08-09) (MCCOMBS ROAD)**

Mr. McCarter advised that Duke Energy has presented a petition to rezone approximately 271 acres along McCombs Road, from Residential (R) to Light Industrial (LI). Duke Energy plans to construct a switching station across the river from the power plant.

The background on the property is follows:

Existing Land Use: Vacant

Future Land Use: Light/Heavy Industrial

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

*Isothermal Planning – APPROVE* - Regarding Case 08-09, a request from Duke Energy to rezone approximately 271 acres from Residential to Light Industrial, please consider that we have reviewed all documentation sent to us regarding this proposal, and we have visited the site. Based upon an amendment to the 2015 Land Use Plan that projects the future land use as Light/Heavy Industrial, and the fact that it adjoins property already zoned Heavy Industrial, we feel that the County could legally approve this request.

*Planning Board – DENY* - The Planning Board vote was split with 5 yes and 6 no. A summary of this decision is discussed below:

**Concerns**

Visual and noise.

Decrease in property value.

Pollution.

Zoning district located within 100 feet of a residence.

What type of buffers and setbacks will be required?

Conditional Zoning can be used to address concerns?

**Conforms with the 2015 Land Use Plan (Statement of Consistency NCGS 153A-341)**

This property is located within a large industrial node.

This property meets the zoning requirements.

**Spot Zoning**

This request is an expansion of an existing industrial zoning district, and therefore would not be considered spot zoning.

Chairwoman Boggs opened the public hearing at 6:35 p.m. (*Notice of this hearing was accomplished in accordance with NCGS 153A-343, with legal ads published in the Star on July 24<sup>th</sup> and July 31, 2008.*)

**Randy Yeltri** of Duke Energy began by saying that they looked at many different locations for the switching station. Several different physical and environmental constraints led them to this site. He then presented the proposed site plan to Commissioners. The site plan included a switching station which noted vegetation and timbered areas. The purpose of the switchyard is to tie the Duke Energy Cliffside Plant to the grid. There will be no transformers or oil located on the site and the traffic would be very low (approximately one truck per week.) The entire station would be designed for maximum capacity, however, it may not be built initially. The switching station will be approximately nine acres with a chain link fence surrounding it.

He then addressed the concerns of the Cleveland County Planning Board. In order to address the visual and noise concerns, Mr. Yeltri explained that the switching station has been moved as far south as possible and has been re-oriented so the shortest side would face residential property. Mr. Yeltri presented a drawing showing a cross-section design to illustrate the visual effects on the property owners. He stated that Duke would augment the existing vegetation with at least the

minimum Class A buffer. Since there will not be transformers on the site, there will not be any noise coming from the switching station.

He then discussed property values. Duke has done extensive studies and market research citing that there is no measurable decrease in the property value or the likelihood of being able to sell the property surrounding the switching station.

In regards to the concern about pollution, Mr. Yeltri stated that there would not be any pollution concerns due to the fact that there is no oil or transformers on this site.

The Planning Board was concerned that the property line would be one hundred feet of a residence. Duke Energy would be willing to take a small portion out of the request for re-zoning to increase that distance.

This property would need to be rezoned in order to make the Cliffside Plant viable. To date, there are no future plans for development of the rest of the property. Mr. Yeltri understands that the property owners are concerned that there will be additional construction on the remaining site and assured Commissioners and the property owners again, that there are no future plans for this site.

Finally, representatives from Duke Energy met with some property owners in the week prior to the meeting. Following this meeting, Duke moved the station back 150 ft. and offered to add some additional planting. Duke Energy is also willing to sell a portion of the property to the property owners adjoining the station.

**Dave Hart** of the Cleveland Chamber 20/20 Economic Development Partnership spoke in favor of the rezoning stating that this is the largest economic development project that the county has every had. “Without the switching station, there would be no plant.”

**Steve Padgett** Cleveland Chamber Board of Directors Chair also spoke in favor of the rezoning stating that the Cleveland County Chamber has passed a resolution in support of the Duke Energy Cliffside Plant. He applauded Duke Energy for ensuring that there would be a plentiful energy supply in our area.

**JoAnn Mills, 136 Fox Hill Drive**, explained that the only thing that she is opposing is the amount of acreage being rezoned. She stated that, “There may not be any future plans today, but we don’t know what will happen in five years. In January, a Duke Power representative spoke with me about putting an ash pond on this site so that is saying there will be more than just a switching station on this site.”

**Rosanne Owens, 119 Vinewood Drive**, explained that she understands that this is a large project for the county, however, she also does not understand why they need to re-zone 271 acres. Ms. Owens finds it hard to believe that, the area on this property where they will be placing the switching station is the only place that this project can go. She also voiced concern about an ash pond being constructed on this site.

**Vicky Jones, 1144 McCombs Road**, began by stating that she felt as though it would not be appropriate for any Commissioner to vote if they had not visited the site. She voiced a number of concerns including the fact that the project endangers the public health and safety of the community by injuring the property values. Ms. Jones also disputed some of the statements regarding vegetation made by Mr. Yeltri saying that the trees in some areas were very small.

Ms. Jones was concerned that, Duke Energy will be rezoning 271 acres for a project that will only cover 9 acres, and once the property is rezoned, Duke Energy would have the ability to construct whatever they would want on the remaining property without having to come before the Commissioners or contact neighbors. She believes that the property will not be in harmony with the area because currently, there are no industrial properties in their sight saying, “We would like to keep it that way.”

Ms. Jones expressed her disappointment in Duke Energy being a good neighbor. She spoke of them changing plans several times. She asked Commissioners to seriously consider her concerns and those of others in making their decision and asked Commissioners to possibly consider a Conditional Use Permit.

In closing, Ms. Jones thanked several Duke Energy representatives for visiting the site but explained that although she is sure they are concerned, they do not have to live with this.

**Several other local residents expressed concern over the proposed re-zoning stating concerns such as location of the substation and the amount of property being re-zoned. The following residents spoke in opposition:**

<b>Ethan Jones</b>	<b>125 Fox Hill Drive</b>
<b>Louise Jolley</b>	<b>1127 McCombs Road</b>
<b>Keith Harris</b>	<b>1137 McCombs Road</b>
<b>Davey Jones</b>	<b>1144 McCombs Road</b>
<b>David Owens</b>	<b>108 Vinewood Drive</b>

**Andy Gibbon, 3713 Southwood Drive**, referenced Section 12-33 of the Zoning Code asking why Commissioners would not consider granting Duke Energy a Conditional Use Permit. He pointed out a section in the code that stated (in his words), “Before you can grant a re-zoning, the visual

separation should already be in existence and an opaque boundary has to be provided. I don't know why you everybody is ignoring this." Mr. McCarter, explained that, the visual separation is required prior to occupancy, not prior to the re-zoning of the property. Mr. Gibbon shared that he believed that there is a solution to meet the needs of all parties involved.

Hearing no further comments, Chairwoman Boggs declared the public hearing closed at 7:35 p.m.

**ACTION:** Johnny Hutchins made a motion to postpone the public hearing and give the property owners and Duke Energy a chance to discuss not rezoning the area of the property that has been proven to have endangered species on it. The motion died of lack of second.

**ACTION:** Ronnie Hawkins made the motion, seconded by Eddie Holbrook and adopted by a majority, *to approve the zoning map amendment as presented.*

Votes were recorded as:

Ayes:	Boggs
	Holbrook
	Accor
	Hawkins
Noes:	Hutchins

**ORDINANCE AMENDING THE OFFICIAL ZONING MAP  
CLEVELAND COUNTY  
Approximately 272 Acres on McCombs Road  
Residential (R) to Light Industrial (LI)**

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, the Cleveland County Planning Board recommended against the rezoning of these parcels July 22, 2008, based on public comment; and

WHEREAS, this parcel is classified as "Light/Heavy Industrial" on the 2015 Future Land Use Plan, and the amendment would therefore be consistent with the comprehensive plan for this area; and

WHEREAS, said amendment will promote the health, safety, and welfare of the citizens of Cleveland County, the public interest would be furthered, and said amendment would be reasonable and beneficial to the orderly growth of Cleveland County.

WHEREAS, notice of the Public Hearing was published in the Shelby Star on July 24, 2008 and July 31, 2008, notices were mailed to adjoining property owners on July 24, 2008 and a sign posted at the property on July 24, 2008; and

WHEREAS, all requirements of the North Carolina General Statutes have been met prior to any action by the Cleveland County Board of Commissioners to amend the Official Zoning Map following a Public Hearing on August 5, 2008;

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 the parcels listed below from Residential (R) to Light Industrial (LI) as identified on the attached map designated "Case 08-09", being incorporated herein by reference and made part of this ordinance.

Parcel 3040 Deed Reference 5Z-301 (208.5 acres)  
Parcel 3041 Deed Reference 13J-085 (14.5 acres)  
Parcel 60369 Deed Reference 1555-1462 (49.4 acres)

This Ordinance shall become effective upon adoption and approval.

Adopted this 5th day of August, 2008 at 6:00 p.m.

**PLANNING DEPARTMENT: PETITION FOR ABANDONMENT ASHLEY DRIVE**

Bill McCarter presented a petition to Commissioners for the abandonment of Ashley Drive. The road is a dirt road which will prohibit access to the rear of several developed lots. Mr. McCarter stated that there are no addresses assigned using Ashley Drive. The resolution of intent was adopted by the Board of Commissioners at their regular meeting of June 17, 2008.

Chairwoman Boggs opened the public hearing at 7:40 p.m. (*public notice was accomplished in accordance with the mandates of NCGS 153A-241, with advertisements published in The Star on July 16, July 23 and July 30, 2008.*)

**Jeannine Allen** of 103 Royal Drive spoke in support of the abandonment of Ashley Drive. Ms. Allen voiced her concern that drug activity was occurring in the properties along the dirt road. She commended the Cleveland County Sheriff's Department for doing an excellent job trying to stop this drug activity. Ms. Allen said that, although the closing of Ashley Drive will probably not stop all drug activity, it will slow down the traffic.

Hearing no additional comments, Chairwoman Boggs closed the public hearing at 7:42 p.m.

**ACTION:** Johnny Hutchins made the motion, seconded by Mary Accor, and unanimously adopted by the Board, *to adopt the following resolution.*

**Number 25-2008**

***Final Order to Abandon a Public Right of Way  
Ashley Drive***

**WHEREAS**, the Board of County Commissioners of Cleveland County, North Carolina, have received a petition from property owners adjoining Ashley Drive, requesting that the public right-of-way be abandoned; and,

**WHEREAS**, the mandates of North Carolina General Statute 153A-241 have been met regarding the proposed abandonment of the public right-of-way; and,

**WHEREAS**, the Cleveland County Board of Commissioners held a public hearing on August 5, 2008.

**NOW THEREFORE, BE IT RESOLVED THAT**, in accordance with North Carolina General Statute 153A-241, the Cleveland County Board of Commissioners do hereby order the abandonment of **ASHLEY DRIVE**, and that a copy of this order be filed in the Office of the Register of Deeds.

**ADOPTED THIS 5th DAY OF AUGUST 2008.**

**COMMISSIONERS REPORT**

Commissioner Accor attended the Championship Math Academy which was hosted by three local churches. Commissioners will recognize the pastors of these churches at their September 2, 2008 meeting.

Commissioner Accor asked Commissioners to support Assistant County Manager Eddie Bailes who was recently selected to serve as the United Way Campaign Chairman.

Commissioner Holbrook explained that the American Legion Southeast Regionals and World Series will begin next Wednesday, August 13<sup>th</sup>. He thanked Commissioners, especially Commissioner Hutchins, for all of their hard work. He said that the caliber of citizens in Cleveland County is just amazing. Three Colonels in the military will be involved in the American Legion games and military personnel who have earned purple hearts will be recognized. Commissioner Holbrook also stated that the families of all active duty sons/daughters serving in Iraq will be recognized.

**ADJOURN**

There being no further business to come before the Board at this time, Johnny Hutchins made the motion, seconded by Mary Accor, and unanimously adopted by the Board, to adjourn at 7:50 p.m. The next regular meeting will be held *on Tuesday, August 19, 2008 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*