Cleveland County Board of Commissioners  
September 17, 2019

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:  Susan Allen, Chairman
          Ronnie Whetstine, Vice-Chair
          Johnny Hutchins, Commissioner
          Doug Bridges, Commissioner
          Deb Hardin, Commissioner
          Brian Epley, County Manager
          Elliot Engstrom, Deputy County Attorney
          Phyllis Nowlen, Clerk to the Board
          Kerri Melton, Assistant County Manager
          Chris Green, Tax Administrator
          Lucas Jackson, Finance Director
          Allison Mauney, Human Resources Director
          Lorie Poston, E-911 Communications Director
          Marty Gold, Information Technology Director
          Katie Swanson, Social Services Director
          Daryl Sando, Electronic Maintenance Director
          Sandra Orvig, Shooting Range Director
          Clifton Philbeck, Board of Elections Director
          Jason Falls, LeGrand Center Director
          Scott Bowman, Maintenance Director

CALL TO ORDER

Chairman Allen called the meeting to order and Commissioner Whetstine provided the invocation and led the audience in the Pledge of Allegiance.

AGENDA ADOPTION

ACTION: Commissioner Hardin made the motion, seconded by Commissioner Bridges and unanimously approved by the Board to, approve the agenda as presented.

CITIZEN RECOGNITION

No one registered to speak.

CONSENT AGENDA

APPROVAL OF MINUTES

The Clerk to the Board included the Minutes from the July 2, 2019 and the August 6, 2019 regular meeting, in board members packets.

ACTION: Commissioner Hutchins made a motion, seconded by Commissioner Bridges, and passed unanimously by the Board to, approve the minutes as written.

TAX COLLECTOR’S MONTHLY REPORT

The Tax Collector provided Commissioners with the following detailed written report regarding taxes collected during August 2019.
TAX ABATEMENTS AND SUPPLEMENTS

The Tax Assessor provided Commissioners with a detailed written report regarding tax abatements and supplements during August 2019. The monthly grand total of tax abatements was listed as $26,372.21 and monthly grand total for tax supplements was listed as $56,163.26.

HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #010)

ACTION: Commissioner Hutchins made a motion, seconded by Commissioner Bridges, and unanimously adopted by the Board to, approve the following budget amendment:

<table>
<thead>
<tr>
<th>Account Number</th>
<th>Project Code</th>
<th>Department/Account Name</th>
<th>Increase</th>
<th>Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>012.545.4.350.93</td>
<td>NFP/Grants</td>
<td>$11,095.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>012.545.5.210.45</td>
<td>NFP/Supplies</td>
<td>$3,395.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>012.545.5.311.45</td>
<td>NFP/Educational-Certif-Training</td>
<td>$2,300.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>012.545.5.370.45</td>
<td>NFP/Advertising</td>
<td>$2,000.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>012.515.5.581.45</td>
<td>NFP/Awards-Appreciation</td>
<td>$3,400.00</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Explanation of Revisions: Budget allocation for $11,095 in funds received from the North Carolina Department of Health and Human Services, Women’s & Children’s health section which gave the Cleveland County Health Department more than the anticipated amount in the addendum.

HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #011)

ACTION: Commissioner Hutchins made a motion, seconded by Commissioner Bridges, and unanimously adopted by the Board to, approve the following budget amendment:

<table>
<thead>
<tr>
<th>Account Number</th>
<th>Project Code</th>
<th>Department/Account Name</th>
<th>Increase</th>
<th>Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>012.533.4.310.85</td>
<td>BCCCP/Federal Grants</td>
<td>$5,470.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>012.533.5.490.00</td>
<td>BCCCP/Professional Services</td>
<td>$5,470.00</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Explanation of Revisions: Budget allocation for $5,470 in funds awarded to the Cleveland County Health Department from the North Carolina Department of Health and Human Services for cancer screenings.
SHERIFF’S DEPARTMENT: BUDGET AMENDMENT (BNA #012)

ACTION: Commissioner Hutchins made a motion, seconded by Commissioner Bridges, and unanimously adopted by the Board to, approve the following budget amendment:

<table>
<thead>
<tr>
<th>Account Number</th>
<th>Project Code</th>
<th>Department/Account Name</th>
<th>Increase</th>
<th>Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>010.441.4.810.39</td>
<td>Sheriff’s Office/Donations-Explorer’s</td>
<td>$5,690.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>010.441.5.790.39</td>
<td>Sheriff’s Office/Donations-Explorer’s</td>
<td>$5,690.00</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Explanation of Revisions: Budget allocation for $5,690 in donations received for the Explorer’s Program for the purchase of uniforms, equipment, training, etc.

LEGAL: BIRDSEYE ENERGY EASEMENT

Warbler Holdings, LLC (“Warbler”) has offered to pay the County for an easement. The easement would be in favor of Duke Energy Carolinas, LLC (“Duke”) and would allow Duke to build a power line to Warbler’s future solar facility in Cleveland County. Pursuant to North Carolina General Statute § 153A-176 and North Carolina General Statute § 160A-273, the County has authority to grant easements over, through, under, or across any county property. Unlike with a sale of real property, there is no public notice requirement in order to grant an easement. Warbler recently received a permit from the Cleveland County Board of Adjustment to build a solar facility in Cleveland County. The County owns nearby property (Parcel # 58557), and Warbler has requested that the County grant an easement to Duke. The easement is designed to provide a path for an electrical line connected to an interconnection with Duke for the benefit of the Warbler solar facility. The easement is located near an economic development project on which the County has partnered with the City of Shelby. Staff for both the County and the City have reviewed the easement and do not see any risk that the easement could negatively impact the economic development project.
EASEMENT

Return To: Duke Energy Carolina
Attn: Janet Wallace
Address: 4225 Wilkinson Blvd.
Charlotte, NC 28214

NORTH CAROLINA
CLEVELAND COUNTY

THIS EASEMENT ("Easement") is made this 17th day of September, 2019 ("Effective Date") from CLEVELAND COUNTY, a Political Subdivision of the State of North Carolina, ("GRANTOR," whether one or more), to Duke Energy Carolinas, LLC, a North Carolina limited liability company ("DEC"), its successors, licensees, and assigns.

WITNESSETH

THAT GRANTOR, for and in consideration of the sum of ONE DOLLAR ($1.00), the receipt and sufficiency of which are hereby acknowledged, does hereby grant unto DEC, its successors, licensees, and assigns, the perpetual right, privilege, and easement to go in and upon the land of GRANTOR situated in Number 7 Township, described as follows: PNL # 2013/19972 containing 98.8 acres, more or less, and being the land described in a deed from Eugene Falls, John Bankhead, and Thomas W. Martin, Jr., Co-Executors of The Estate of Robert Z. Falls in Cleveland County, a Political Subdivision of the State of North Carolina dated, and recorded in deed Book 1442, Page 54B, Cleveland County Registry (the "Property"); LESS AND EXCEPT any prior out-conveyances, and to (i) construct, reconstruct, operate, patrol, maintain, inspect, repair, replace, relocate, add to, modify and remove electric and/or communication facilities thereon including but not limited to, supporting structures such as poles, cables, wires, guy wires, anchors, and other appurtenant apparatus and equipment (the "Facilities") within an easement area being one-hundred (100) feet long and thirty (30) feet wide and as shown as "Overhead & Ground Easement" on Exhibit A attached hereto, and (ii) construct, reconstruct, operate, patrol, maintain, inspect, repair, replace, relocate, add to, modify and remove Facilities therein within an easement area being two (2) portions of sixty-four (64) feet long and thirty (30) feet wide and as shown as "Overhead-Only Easement" on Exhibit A attached hereto; provided, however, that any Facilities installed in the Overhead-Only Easement shall be above-ground, and no Facilities may be placed or located on the ground within the Overhead-Only Easement (collectively, the "Easement Area"), for the purpose of transmitting and distributing electrical energy and for communication purposes of DEC and Incumbent Local Exchange Carriers. The centerline of the Facilities shall be the center line of the Easement Area.

The right, privilege and easement shall include the following rights granted to DEC: (a) ingress and egress over the Easement Area and over adjoining portions of the Property (using lanes, driveways and paved areas where practical as determined by DEC); (b) to relocate the Facilities and Easement Area on the Property to conform to any future highway or street relocation, widening or improvement; (c) to trim and keep clear from the Easement Area, now or at any time in the future, trees, limbs, undergrowth, structures or other obstructions, and to trim or clear dead, diseased, weak or leaning trees or limbs outside of the Easement Area which, in the opinion of DEC, might interfere with or fall upon the Facilities; (d) to install guy wires and anchors extending beyond the limits of the Easement Area; and (e) all other rights and privileges reasonably necessary or convenient for DEC’s safe, reliable and efficient installation, operation, and maintenance of the Facilities and for the enjoyment and use of the Easement Area for the purposes described herein.

Notwithstanding anything to the contrary above, it is understood and agreed that: The general location of the Easement Area is shown on the sketch attached hereto as Exhibit A and recorded hereon. The final and definitive location of the Easement Area shall be established by and upon the final installation and erection of the facilities by DEC in substantial compliance with Exhibit A hereto.

TO HAVE AND TO HOLD said rights, privilege, and easement unto DEC, its successors, licensees, and assigns, forever, and GRANTOR, for itself, its heirs, executors, administrators, successors, and assigns, covenant to and with DEC that GRANTOR is the lawful owner of the Property and the Easement Area in fee and has the right to convey said rights and Easement.

IN WITNESS WHEREOF, this EASEMENT has been executed by GRANTOR and is effective as of the Effective Date hereof.

CLEVELAND COUNTY

By: [Signature]

Name: Susan K. Allen

as Chairman

NORTH CAROLINA, CLEVELAND COUNTY

April N. Cutts, a Notary Public of Cleveland County, North Carolina certify that April N. Cutts, of CLEVELAND COUNTY, a Political Subdivision of the State of North Carolina, personally appeared before me this day and acknowledged the due execution of the foregoing EASEMENT as Chairman of the Board of Commissioners on behalf of Cleveland County.

Witness my hand and notarial seal this 17th day of September, 2019.

April N. Cutts

Notary Public

My commission expires: 5-7-2030
**ACTION:** Commissioner Hutchins made a motion, seconded by Commissioner Bridges, and unanimously adopted by the Board to, **approve the Birdseye Energy Easement.**

**LEGAL: CANCELLATION OF JUDGEMENT**

The County has a judgment against Jimmy White in the matter of Cleveland County vs. Jimmy White, 14 CVM 500. The judgment dates to May 13, 2014 and relates to unpaid animal control citations due to roaming cattle. Mr. White has offered to pay the County one thousand dollars in order to cancel the judgment and Legal staff recommends accepting the offer.

**ACTION:** Commissioner Hutchins made a motion, seconded by Commissioner Bridges, and unanimously adopted by the Board to, **authorize the Deputy County Attorney to cancel the County’s judgment in case 14 CVM 500.**

**COMMISSIONERS: SET PUBLIC HEARING FOR CLEVELAND COUNTY HEALTH DEPARTMENT ADVISORY BOARD (November 5, 2019)**

Request to set a public hearing on Tuesday, November 5, 2019 to consider the transition of the Cleveland County Board of Health to an advisory board.

**ACTION:** Commissioner Hutchins made a motion, seconded by Commissioner Bridges, and unanimously adopted by the Board to, **approve scheduling the public hearing as requested.**
HUMAN RESOURCES: APPENDIX E. PAY PLAN OF OFFICE OF CLEVELAND COUNTY SHERIFF'S POLICY

The Cleveland County Detention Division would like to restructure the supervision within the Detention Division by adding a Detention Master Corporal position. This will allow non-sworn detention officers the opportunity to achieve advancement in the career of detention within the Cleveland County Sheriff’s Department. This position will be added to Appendix E. Pay Plan of Office of Cleveland County Sheriff Policy. To ensure consistency within the Cleveland County Sheriff’s Department, the Detention Division would like to include qualifying military service to Level 2 and Level 3 for Detention Officers and Detention Corporals.

Master Corporal:  
Average Corporal Salary = $ 40,428.15  
6% of $40,428.15 = $2,425  
$2,425 x 4 (1 per shift) = $9,700  
Plus, potentially percent increases:  
Level 2 = 4%  
Level 3 = 2%

Qualifying Military Service:  
Average Detention Officer Salary = $35,969.14  
Level 2 = 4%  
Level 3 = 2%

ACTION:  Commissioner Hutchins made a motion, seconded by Commissioner Bridges, and unanimously adopted by the Board, to approve Appendix E. Pay Plan of Office of Cleveland County Sheriff’s Police.
Chairman Allen called Deputy County Attorney Elliot Engstrom to the podium to present the Rules of Procedure. North Carolina General Statute § 153A-41 authorizes the Board of Commissioners to adopt “its own rules of procedure.” Recently, the UNC School of Government published new recommended rules of procedure for local governments. Legal staff has reconciled these changes with the current rules of procedure for the Cleveland County’s Board of Commissioners. The result is a set of rules that largely maintains the current rules of procedure while incorporating modern best practices. The new proposed rules have been edited to ensure they do not unnecessarily change any of the Board’s current practices such as:

• The proposed rules maintain the practice of the County manager presiding over organization meetings in a year where the outgoing chair has lost his or her seat on the Board.
• The proposed rules maintain the practice of requiring a second on any motion.
• The proposed rules maintain the current rule that where a board member has not been excused from voting on a matter, that member’s failure to vote is recorded as an affirmative.
Mr. Engstrom reviewed the following the PowerPoint to the Board.

ACTION: Commissioner Whetstine made the motion, seconded by Commissioner Hutchins and unanimously adopted by the Board to, approve the proposed rules of procedure as presented. (Full copy of the Rules of Procedure is filed in the Clerk’s Office).

REAL PROPERTY TRANSACTION PLATO LEE ROAD

Chairman Allen recognized Greg Pering, County Engineer, to present the real property transaction for Plato Lee Road. Cleveland County owns parcel 58557 which is located between Washburn Switch Rd and Plato Lee Road. It is 46.9 acres of wooded and grass lands with a stream splitting the property. The suggested use of property is a shell building. The property is directly across from KSM Castings on Plato Lee and directly behind Clearwater Paper Site One. Cleveland County and the City of Shelby have partnered on several Shell Buildings such as:
• City and County completed Shell Building I in 2011
  • Schletter purchased in 2012
• City and County completed Shell Building II in 2014
  • Ivar’s purchased in 2015
• City and County partner on Shell Building III plans in 2018
  • Greenheck purchased in 2019

Cleveland County and the City of Shelby have discussed a partnership for Shelby Building IV. Benefits of this property collaboration include:

• New substation north of the property - minimal infrastructure improvements required
• Future 74 bypass entrance on Washburn Switch
• Phase I Environmental and Wetlands Delineation completed
• Property suitable for multiple shell buildings

As with the previous Shell Building partnerships, the City of Shelby will be the project manager. To manage the project, the property must be deeded to the City of Shelby. The City will purchase the property from Cleveland County for half of the purchase price of $133,500. The following PowerPoint was presented to the Board.
Chairman Allen opened the floor to the Board for questions and discussion. Commissioner Hutchins stated previous shell building agreements have resulted in good partnerships with the City of Shelby and this collaboration shouldn’t be any different. Chairman Allen explained, with the continued growth of economic development, many of the bid packages received are looking for established shell buildings and the county has been very successful with those types of buildings.

**ACTION:** Commissioner Hutchins made the motion, seconded by Commissioner Bridges and unanimously adopted by the Board to, **approve the resolution authorizing the sale of Parcel 58557 to the City of Shelby for a purchase price of $133,500 and also authorizes the County Manager to develop an interlocal agreement for construction of Shell Building IV.**

![Resolution 20-2019](image)

**ANIMAL SERVICES ORDINANCE**

Chairman Allen called Deputy County Attorney Elliot Engstrom to the podium to present the Animal Services Ordinance. Should this ordinance be approved, Animal S will be moved from the Health D and will become a standalone department supervised by the County Manager’s office. The Cleveland County Code of Ordinances currently designates the Health Director as the supervisor of animal services. The animal services director position is being changed to a department head level position. Certain changes must be made to the code of ordinances to accommodate this change including:
Clarifying the difference between the animal services director and an animal control officer
• Shifting supervision of animal services from the health director to the animal services director, who will be a department head supervised by the county manager
• Creating an animal services advisory and appeals board to hear dangerous dog appeals and advise the Board of Commissioners on animal services issues
• Clarifying that the health director still must fulfill his or her statutory duties regarding rabies prevention

Mr. Engstrom reviewed the following PowerPoint to the Board.

Chairman Allen opened the floor to the Board for questions and discussion. Commissioner Whetstine commented on transitioning Animal Services to a stand alone departing stating it was a good move since that department has increasingly grown in size and services to the community.

**ACTION:** Commissioner Hardin made a motion, seconded by Commissioner Whetstine, and approved unanimously by the Board to, **adopt the resolution creating the animal services advisory and appeals board and approve the Animal Ordinance changes.** (copy of lease found in Minute Book _________ page _________.)
COMMISSIONER REPORTS

Commissioner Hardin – went to the Isothermal Planning and Development Commission work session on economic development. She and other Commissioners also attended the Parade of Table fundraising event for the Council on Aging.

Commissioner Bridges – advised September 17th is Constitution Day and reviewed the importance of this date.

Commissioner Hutchins – attended the HAM Radio Fest last weekend that was held at the fairgrounds. He also attended several other board meetings on which he serves and gave an updated on the upcoming Veteran’s Day Parade and the Foothills Shooting Complex expansion project.

Commissioner Whetstine – walked in the Walk for Life fundraising event for the pregnancy resources center. He also attended several other fundraising events that benefit the community.

Chairman Allen – went to the American Red Cross building open house along with the other Commissioners.
ADJOURN

There being no further business to come before the Board at this time, Commissioner Bridges made a motion, seconded by Commissioner Hardin, and unanimously adopted by the Board, to adjourn the meeting. The next meeting of the Commission is scheduled for Tuesday, October 1, 2019 at 6:00 p.m. in the Commissioners Chambers located at 311 E. Marion St., Shelby.

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Susan Allen, Chairman
Cleveland County Board of Commissioners

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Phyllis Nowlen, Clerk to the Board
Cleveland County Board of Commissioners