Cleveland County Board of Commissioners
December 7, 2021

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

PRESENT:  Doug Bridges, Chairman
           Deb Hardin, Vice-Chairman
           Ronnie Whetstine, Commissioner
           Kevin Gordon, Commissioner
           Tim Moore, County Attorney
           Brian Epley, County Manager
           Phyllis Nowlen, Clerk to the Board
           Kerri Melton, Assistant County Manager
           Martha Thompson, Deputy County Attorney
           Chris Martin, Planning Director
           Lucas Jackson, Finance Director
           Scott Bowman, Maintenance Director
           Allison Mauney, Human Resources Director
           Josh Davis, Solid Waste Director
           Jason Falls, Business Development Director
           Stephen Bishop, Soil and Water Conservation Director

ABSENT:  Johnny Hutchins, Commissioner

CALL TO ORDER

Chairman Bridges called the meeting to order and invited anyone from the audience to lead the Pledge of Allegiance and provide the invocation.

Steve Padgett, Small Business Center Director, provided the invocation and led the audience in the Pledge of Allegiance.

Chairman Bridges announced the following, “Notice is hereby given of the postponement of the three public hearings originally scheduled for the December 7, 2021, Commissioners Meeting regarding Small Business Incentive Grants for B&S Butler Properties, LLC, Thoroughbred Partners LTD and White Investments of Shelby, LLC this evening. The public hearings are reset for Tuesday, January 18, 2022, at 6:00 pm in the Commissioners Chambers.”

AGENDA ADOPTION

ACTION:  Commissioner Hardin made the motion, seconded by Commissioner Whetstine and unanimously adopted by the Board to, approve the agenda with the postponement of item 1 and item 2 to the December 20, 2021, regular Commissioners meeting:

Item 1. Selection of Commission Chair

Item 2. Selection of Commission Vice-Chair

CITIZEN RECOGNITION

Glenda Green, no address given – introduced Malarie Thompson, a Cleveland County farmer and county representative, who won several awards while attending the American Farm Bureau Federation (AFBF) Convention.
Randy McDaniel, 830 Dixon School Road, Kings Mountain – spoke about Cleveland County’s Land Use Plan and the importance of working together to preserve farmland in the county.

Malarie Thompson, 5807 Oak Grove Church Hill Road, Lawndale – is a local farmer and spoke about the significance of preserving farmland in Cleveland County in the new Land Use Plan.

CONSENT AGENDA

APPROVAL OF MINUTES

The Clerk to the Board included the Minutes from the September 21, 2021 in board members’ packets.

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

MONTHLY MANAGER’S REPORT

- The Finance Department has submitted its FY21 annual audit report to the Local Government Commission. We are pleased to report that Cleveland County was the first to submit its CAFR out of the 20+ NC Counties engaged with the CPA firm Thompson, Price, Scott, & Adams. The Local Government Commission has accepted the report and management anticipates approval by the first of the year.

- The Finance Department is working with the lending and bond counsel on the financing strategy for the Shell Building #4 joint project with the City of Shelby. The plan for this project will be very similar to that of Shell Building III, where the County manages the funding aspect of the project while the City of Shelby manages project development.

- The County continues working through the construction bid process for the DSS relocation project. This project is for renovations of the 2nd floor of the Public Health Department to accommodate the Department of Social Services. Bids will be opened for this project on December 13th.

SHERIFF’S OFFICE: BUDGET AMENDMENT (BNA #023)

ACTION: Commissioner Whetstine made a motion, seconded by Commissioner Gordon, 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>010.438.4.310.00</td>
<td>16738-014579</td>
<td>Law Enforcement Grants/Federal Govt Grants</td>
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<td></td>
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<tr>
<td>010.438.5.910.00</td>
<td>16738-014579</td>
<td>Law Enforcement Grants/Capital Equipment</td>
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<td>Law Enforcement Grants/Supplies</td>
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Explanation of Revisions: Budget allocation for $21,200 in funds received from the North Carolina Department of Public Safety for the Evidence Storage Improvement Project

SOCIAL SERVICES: BUDGET AMENDMENT (BNA #024)

ACTION: Commissioner Whetstine made a motion, seconded by Commissioner Gordon, 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>
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</thead>
<tbody>
<tr>
<td>011.519.4.310.00</td>
<td>16738-014579</td>
<td>Public Assistance/Federal Govt Grants</td>
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<tr>
<td>011.519.5.512.09</td>
<td>16738-014579</td>
<td>Public Assistance/Public Asst-LIHWA</td>
<td>$287,801.00</td>
<td></td>
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</tbody>
</table>
Explaination of Revisions: Budget allocation for $287,801 to assist with the new Low Income Household Water Assistance Program for Cleveland County residents.

LEGAL DEPARTMENT: HSA COVID RELIEF

Cleveland County has been in a State of Emergency due to the COVID-19 coronavirus pandemic, according to its Proclamation on March 17, 2020, and has further entered into a Resolution Approving and Requiring Certain Personnel Actions in response to the COVID-19 Pandemic on May 5, 2020. The surge from the DELTA variant to the County’s full-time employees when hospitalized is causing an increase in medical expenses for those employees. To assist with medical expenses for eligible full-time employees who are both insured under the County’s health insurance plan and who contract a serious case of COVID-19 requiring hospitalization, staff proposes providing $2,000 in HSA funds to the account of any full-time employee who meets the requirements (full-time insured and hospitalized for COVID) for this fiscal year, or until the SOE is rescinded, whichever occurs first.

ACTION: Commissioner Whetstine made a motion, seconded by Commissioner Gordon, and unanimously adopted by the Board to, approve the resolution relating to COVID-19 relief for county employees.

PLANNING DEPARTMENT: REQUEST TO SET PUBLIC HEARING FOR TUESDAY, JANUARY 18, 2022 FOR CASE 21-26; REQUEST TO REZONE PROPERTY AT 955 STONY POINT ROAD FROM RESTRICTED RESIDENTIAL (RR) TO RESIDENTIAL (R)

Parcel 16361 is an 11-acre tract of property, belonging to Wayne Smiley, located at 955 Stony Point Road in Kings Mountain. The applicant, Mr. Smiley, is asking to rezone the parcel from Restricted Residential (RR) to Residential (R). Surrounding zoning is Restricted Residential (RR) with General Business (GB) at the intersection...
of New Camp Creek Church Road, and Residential (R) south along Stony Point Road. The current Land Use Plan shows the area as Future Residential so either zoning district would comply with the Land Use Plan.

**ACTION:** Commissioner Whetstone made a motion, seconded by Commissioner Gordon, and unanimously adopted by the Board to, **approve scheduling the public hearings as requested.**

**HEALTH DEPARTMENT: FINANCIAL ELIGIBILITY FEE COLLECTION POLICY**

**ACTION:** Commissioner Whetstone made a motion, seconded by Commissioner Gordon, and unanimously adopted by the Board, to **approve the updated Financial Eligibility Fee Collection Policy.** (see highlighted changes):

**CLEVELAND COUNTY DEPARTMENT OF PUBLIC HEALTH**

**GUIDELINE PROCEDURE: Financial Eligibility Fee Collection**

<table>
<thead>
<tr>
<th>NAME OF GUIDELINE</th>
<th>PROCEDURE</th>
<th>CATEGORY</th>
<th>SUBJECT</th>
<th>EFFECTIVE DATE</th>
<th>VERSION</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHD Financial Eligibility Fee Collection Policy</td>
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</tbody>
</table>

**MANUAL Board of Health**

**APPROVED BY:** Health Director, Cleveland County Board of Health and County Commissioners

**PREPARED BY:** Alah Leonard Leslie McManus

**DATE LAST REVISED:** 11/30/2013

**DATE LAST REVIEWED:** 11/30/2013

**1.0 Policy:**

Fees for Cleveland County Health Department (“Health Department”) services are authorized under NC General Statutes section 130A-250.1 provided (1) they are in accordance with a plan recommended by the Health Director and approved by the Board of Health and County Commissioners (breastfeeding rate plus 2%) rates cost is more than Medicaid rate, then cost plus 2%, and (2) unless they are otherwise prohibited by law.

Public health services are increasingly expensive to provide. The Health Department serves the public interest best by ensuring that all legally mandated public health services are made available and by providing as many as requested and required public health services for those citizens with greatest need. In the past, the concept of public health services has been that fees are free to all. However, economic conditions have made it necessary for public health agencies to try to recover some of the cost of services, whether it is from the patient or another third party payer. fees have become necessary to support the provision of services and maximize Health Department services to the community. Therefore, fees are considered appropriate. Fees charged to individuals for Health Department services will be charged at the established established rate that has been approved by the Health Director, Board of Health, and the Board of County Commissioners. Individuals may qualify for a sliding scale discount based upon income. Services will not be denied based solely on the inability to pay. All staff members involved in collection of fees for services will document (for the establishment of fees for collection through the departmental automatic in this document and shall hold all client information confidential.

The Health Department provides services without regard to race, sex, national origin, creed, color, gender, marital status, age, disability, sexual orientation, or contraception preference.

**2.0 Programs Affected:**

All clinical services should follow these guidelines.

**3.0 Definitions:**

- None

**Procedure:**

**Specific program guidelines should always be used to determine residency, income requirements, sliding scale discounts, patient charges and other program eligibility requirements. Health department staff should always be aware of changing requirements in program guidelines.**

**FINANCIAL ELIGIBILITY**

The financial eligibility determination process is designed to assess a patient’s ability to pay for services rendered by the Cleveland County Health Department. By having staff assess patient’s financial eligibility, the agency ensures that fees for services rendered comply with the Land Use Plan; ensuring procedures are consistent and standardized for all interviewers. Eligibility for services is determined by residency, family size and financial information. Financial eligibility determination prior to or at the time the patient receives new services and should be updated annually or when there is a change in income.

**Definition of Family/Economic Unit**

The Health Department uses the Economic Unit to define a family. Under this method, a family is defined as a group of related or unrelated individuals who are living together as one economic unit. Individuals are considered members of a single family or economic unit when their production of income and consumption of goods are related. Also, groups of individuals living in the same house with other individuals may be considered a separate Economic Unit. (Example: Some patients live in a setting with a number of family members, sometimes closely related that make up the household. If they share daily expenses such as food, rent, utilities, etc., they constitute one Economic Unit. If the patient is not related to other family members, and if confidentiality is not a factor, then the members of the Economic Unit would be considered family members.)

Financially dependent relatives under the age of 19 or income who live in the patient’s household may also be counted as family members. Members living in the household 18 years and older that do not self-support should be considered as a family of one.

Terms and others setting “financial aid,” regardless of age and depending on the reason for application for financial aid. In general, the term aid is used to mean that the aid is judged necessary in order to render needed medical assistance. All self-identified information on documents showing income and monthly expenses and bank account numbers, will be kept strictly confidential.

Acceptable forms of income documentation are listed below and may be used to determine eligibility:

- a Current Paycheck stub
- a W-2, forms of complete tax returns and statements from the most recent calendar year
- a written statement from the patient’s employer when no other documentation is available
- a Social Security statement

When documentation of income has been verified, the interviewer should enter the information on the Excel spreadsheet in the Patient Electronic Health Record (EHR). Presentation of benefit letters can be validated by having the letter state that the information is true and correct. If there is a discrepancy, the patient will be denied services.

Patients that may apply for Medicaid should also be income assessed in the event that Medicaid is not approved. They should be informed of the time of the status change and be responsible for if Medicaid is not approved. If Medicaid application is approved and or reinstated to the date of service, charges will be charged from patient and Medicaid will be billed.

Documentation of income will be required for mandated services such as Sexually Transmitted Diseases, Tuberculosis, Communicable Diseases, and some applied immunizations. All documentation once complete will be stored for patient services or at the School Based Health Center services since they are covered under a contract with the subject school districts.

Women, Infants and Children’s Program (WIC) state initiative system Connects handles all determinable eligibility within the system.

**All Cleveland County Division of Employment Security database is used to verify income information.**

**Determination of Gross Income**

Gross income is the total of all cash income before deductions for income taxes, employee’s social security taxes, insurance premiums, bonds, etc. For self-employed persons, the gross income figure is the total income minus any business expenses. In general, gross income includes:

- a) Salaries and wages including overtime pay, commissions, tips and tips

**4.0 Procedure:**

Financial Eligibility Fee Collection Policy 2

Financial Eligibility Fee Collection Policy 3

Financial Eligibility Fee Collection Policy 4

Financial Eligibility Fee Collection Policy 5
Each patient will be required to sign a Declaration of Income Form (Attachment 1) verifying that the financial information supplied to the interviewer is true and accurate. This statement will also include an authorization giving the Cleveland County Health Department the right to verify this information and authorizing payment of benefits to Cleveland County Health Department. One in the household with the income form filled out must be present every time due to fluctuations in income. If income changes occur, an income declaration form must be signed and dated by the patient, interviews and/or interviews when applicable. The Declaration of Income Form will become part of the patient record.

Note: If a patient is considered "confidential," it will be documented in Patagonia Health Record.

Computation of Income

The family’s gross income must be used to determine eligibility of services at the time of the application for services. Gross family income, or income before deductions, is computed by adding all income owned by family members during a 12-month period. Income review of the previous 12 months will be performed by the following methods:

a. Initial income will be computed by taking the patient’s declared income and if paid weekly multiply by 52, if paid bi-weekly multiply by 26, semi-monthly multiply by 24, and monthly multiply by 12.

b. Following the initial financial eligibility determination, if there has been a change in income and/or employment, recalculates annual income with step a and have patient sign Declaration of Income

c. Following the initial financial eligibility determination. If no change has occurred, there is no requirement to sign a Declaration of Income unless it is the annual review

d. If patient is not employed or has changed jobs in past 12 months, use the Irregular Income Formula or 6 Months Formula

Unemployed only for last 6 months - project unemployment (if applicable) or zero if client isn’t receive unemployment. If no unemployment compensation as client they will support themselves.

Employed today but unemployed last 6 months - Did the client receive unemployment for the last 6 months? If not, record zero and then project this 6 months forward at current income. This will allow to determine income for claim for a 12 month period.

SLEDING FOR SCALE

The sliding scale for an income scale that is developed by the North Carolina Division of Public Health so that a patient’s inability to pay is not a barrier to receive services. A schedule of sliding scale should be submitted.

FINANCIAL ELIGIBILITY AND UTILIZATION REVIEW

Traditional representation may be included. The maximum fee for each request shall be seventy-five cents per page for the first 25 pages, and fifty-five cents per page for pages 26 through 100, and five cents per page for pages 101 and above. Fees shall be charged in the following manner: cash or check shall be due at the time the service is rendered. The fee shall be paid in cash or check. If the service is rendered on behalf of a client, the client shall be responsible for the fee.

Confidentiality

The confidentiality of the patient’s health information is protected by state law. The patient’s health information is considered confidential and is protected by the Health Insurance Portability and Accountability Act (HIPAA).

3. Patients will be asked to sign a confidentiality statement before their appointment.

4. No information will be shared with any third party without the patient’s written consent.

5. Patients have the right to inspect and receive a copy of their health information.

6. Patients have the right to request amendments to their health information.

7. Patients have the right to complain if they believe their health information has been used or disclosed in violation of this policy.

8. Patients have the right to receive a notice of amendments to this confidentiality policy.

9. Patients have the right to request that their health information not be used or disclosed for certain purposes.

10. Patients have the right to receive a notice of the right to request restrictions on the use and disclosure of their health information.

11. Patients have the right to receive a notice of the right to request confidential communications of their health information.

12. Patients have the right to make a complaint if they believe their health information has not been used or disclosed as required by law.
However, if services are provided to patients in which the Health Department is out-of- 
network or not listed as the primary provider, the patient will be responsible for the fee 
based on the sliding scale, if applicable.

Claims for payment of services provided will be filed with insurance companies for patients 
that have private insurance. If the claims are denied or left pending, the Health Department 
will research and seek claims on behalf of the patient. After this, if the claim is not paid/received, 
the patient will be billed for the service based on the appropriate sliding scale for 
fee.

Patients that present with Medicare coverage should be notified that Medicare does 
not cover the service, the patient will be responsible for the expense. The employer should 
also explain to the patient why the service may be denied for coverage. An Advanced 
Beneficiary Notice (ABN) should be completed and signed by the patient. A copy of the 
form should be given to the patient and a copy kept in the medical record (Attachment P).

If a Family Planning patient gives consent to bill insurance, the chart should explain that 
an Explanation of Benefits will be sent to the insurance company with a letter addressed 
with the insurance company. Patients should always sign the Privacy Insurance Advance Notice. 
Family Planning patients will not be charged more in copayments, deductibles, or other 
fees than they would pay according to the sliding scale fee.

Medicaid

All Minority patients shall be referred to the eligibility specialist for evaluation and 
documentation of insurance screening. Minimal Health patients who are determined eligible 
to have Presumptive Eligibility for Medicaid, will have Medicaid coverage for approximately 
two months (depending upon when they are screen during the month). Patients should 
be informed that if they do not officially apply for Medicaid at the Department of Social 
Services, they will be responsible for charges after Presumptive Eligibility ends. However, patients are not required to apply for Medicaid.

For those patients who have both private insurance and Medicaid, the private insurance 
is considered to be primary. After receipt of the explanations of benefits and payments 
from the insurance carrier, the balance may be filed for Medicaid payment.

Medicaid eligible patients will not be responsible for charges not covered 
denied by Medicaid payments.

Grants

Some grants are designed to pay for specific fees such as medical and dental fees. 
When patients review the chart, funding may be transferred from the grant revenue 
to cover the fee charged to the patient.

COLLECTIONS

The policy of the Cleveland County Health Department is to comply with N.C.G.S. 33A-4 (b) 
which requires that all funds collected be budgeted and expended to further the objectives 
of the program that generated the income.

appending the “CD” modifier on the drug detail. Medicaid does not collect revenues on 
claims from or for providers.

Chief Pain Alerts

Patients must take responsibility for their own birth control supplies. If a patient has 
established as a chronic abscess of sugars (too high replacement pills given three times) 
and a non-sterilized patient, one of the following options may be utilized:

a. Provide the patient with foam and condoms.

b. Provide the patient with a prescription for the pills.

Medicaid patients that are determined to be chronic pill users may not be charged 
for replacement pills. However, these patients may be limited to one package of pills per visit to 
prevent current abuse.

Expensive Forms of Contraception

Local health departments must access their resources to determine the contraception 
methods that they can offer. Title X requires that all patients be offered a broad range of 
acceptable, effective medically approved family planning services and methods either 
on site or by referral. In instances where a service is not provided, the patient may be referred 
to another service provider.

Effective Forms of Contraception

Effective contraceptive services, as defined in the Title X program, are those contraceptive 
services and methods that provide the highest level of protection against unwanted 
pregnancy. Such contraceptive services and methods are those that have been 
found to be effective in preventing pregnancy under conditions of typical 
use. These services and methods are approved for use in the United States by the Food 
and Drug Administration. In addition, contraceptive services and methods 
are medically recognized and approved for use in the United States by 
health professionals who are licensed to provide such services.

Family Planning patients who are unable to pay, for good cause, for Family Planning services 
must apply for assistance through the Office of Financial Services Department.

SPECIAL SCHOOL HEALTH SERVICES

A portion of the contract amount with Cleveland County Schools for school nursing and school 
based health centers services will be used to pay for school based health center services 
provided to uninsured or underinsured students.

When school employees are free for a medial service in one of the school based health centers, 
their third party insurance source should be billed. Co-payments, co-insurance and deductibles 
not paid by the third party, will be billed to the school student as they are not covered 
by the school insurance.

COMMUNITY ORGANIZATION FOR DRUG AND ALCOHOL PREVENTION (CODAP)

CODAP services provide the Student Options and Recreation (S.O.R) program (formerly 
Student Options Initiative) begins with interventions and resources for students who 
volunteer substance abuse policies in Cleveland County Schools as well as students who violate 
derogatory alcohol use in the state of North Carolina. This program was formerly funded by a

grant from the United Way of Cleveland County, Inc. and is now funded by community 
contributions to CODAP services primarily from AAH, community benefit funds generated from 
AAH, funds from Shelby and Lugni Foundations. CODAP’s mission, to encourage the use of 
the program as a preventative measure, deliver services to students regardless of their ability to 
pay fees.

A sliding scale based on annual income and the number of residents in a household 
would be applied to the program participants that are funded with the 501c3 program. 
Special services will be provided for those that do not qualify due to Medicaid eligibility.

The Department will no longer accept payments for that debt.

SPECIAL FAMILY PLANNING ISSUES

Since the Health Department receives funding from Title X, local family planning programs must 
address patients provided with care, contains costs while ensuring quality care, and assure compliance 
with Title X Guidelines. Medicaid reimburses the Cleveland County Health Department 
for 94% of the Medicaid and Health Choice states, which states that “provides billing for 1694H drugs shall be the cost that is reflective of their acquisition cost.

Providers shall indicate that a drug was purchased under a 1694H purchasing agreement by

the Department to the patient.

Claim Visit

Clinical personnel will have the primary responsibility to inform patients of all 
charges incurred during clinic visit. Patients should be informed of the specific items 
that make up the charge for the services they used. For lab, supplies, etc. Clinicians may also disclose 
charges to patients in order to emphasize the importance of payments. Full payment will 
be collected via cash and/or check. A lien service is not required. Patients will be informed 
of their entire account status at each clinic visit or contact. At the clinic visit, statement 
information given to the patient will include all charges, sliding scale fees, payments, 
amounts on accounts and the total balance due.

For any balance due a Patient Payment Agreement should be signed and this should 
be added with additional charges as they are incurred. A copy is provided as follows 
without identifying information.

The receipt of payments that are not insurance co-payments for the current service will be 
posted to the oldest outstanding charge...

Submissions

Patients with an active account will be mailed a computer-generated statement every 
other month (Attachment C).

Statements for confidential services will not be mailed to patients who have requested 
not contact by mail; however, in those cases discussion of payment of outstanding debt shall 
remain at the time service is rendered.

Data Set Off

As authorized by Chapter 15A of the North Carolina General Statutes, the Health 
Department will utilize the North Carolina Government Debt Set Off Program as an 
additional means to determine if, and to recover debt owed. Specific services will be 
primarily those services of the Debt Set Off Program to notify patients of the debt set-off 
and their right of appeal (Attachment D) will be followed. Once the debt has been sent to the Chasewords, 
the Health Department will no longer accept payments for that debt.

SERVICE DELIVERY PLANS

Since the Health Department receives funding from Title X, local family planning programs must 
schedule patients provided with care, contains costs while ensuring quality care, and assure compliance 
with Title X Guidelines. Medicaid reimburses the Cleveland County Health Department 
for 94% of the Medicaid and Health Choice states, which states that “provides billing for 1694H drugs shall be the cost that is reflective of their acquisition cost.

Providers shall indicate that a drug was purchased under a 1694H purchasing agreement by

the Department to the patient.
LEGAL DEPARTMENT: FAIR LEASE EXTENSION

Staff has prepared an extension of the County’s lease of the fairgrounds with the Cleveland County Fair Association. The lease extension incorporates the terms of the existing lease and simply extends that lease through June 30, 2022. This will allow time for staff to work on a longer-term lease for this property and conduct a survey of the fire station, which will ultimately be extracted from the area leased to the Fair Association. North Carolina General Statute § 160A-272 authorizes the County to lease property under a resolution adopted at a regular meeting. Per North Carolina General Statute § 160A-272(b), no public notice is required for a lease with a term of less than one year.

ACTION: Commissioner Whetstine made a motion, seconded by Commissioner Gordon, and unanimously adopted by the Board to, approve the fair lease extension through June 30, 2022.
TACC: COMMUNITY TRANSPORTATION SERVICE PLAN

COUNTY OF CLEVELAND

This Lease Extension Agreement (the “Agreement”) is made December 17, 2021, between Cleveland County, North Carolina, a political subdivision of the State of North Carolina (“Lessor”), and Cleveland County Fair Association, Inc. (“Lessee”).

RECORDS

A. Pursuant to a lease dated January 17, 2012 (the “Lease”), Lessee let from Lessee the following described property: the “Subject Property” located in Cleveland County, North Carolina:

BEGNINGING at an iron pin on the South line of the Cleveland County property, said pin being located on said South line South 45°46’ East 195 feet from the East edge of U.S. 74 Business, and one thousand five hundred feet South 45°46’ East from the East corner of said property, thence following the center of the unnamed branch in a Northwesterly direction to another unnamed branch, thence following the center of the unnamed branch in a Northwesterly direction to an existing concrete monument, the Southeast corner of the North Carolina Board of Transportation property, thence with the line of the North Carolina Board of Transportation property North 39°57’ West 208.5 feet to an iron pin, thence with the East line of the property located to the Cleveland County Fair Association, incorporated the following two calls: South 24°46’ West 689.12 feet and South 45°21’ West 339 feet to the place of BEGINNING, according to the description furnished by the Cleveland County Tax Mapping Office.

B. The Lease will terminate on December 31, 2021.

C. Lessee and Lessee desire to extend the Lease for a term of six (6) months (the “Additional Term”) from the Lease termination date. During the Additional Term, Lessee and Lessee will record a survey of the fire station located on the Subject Property and exhibit the surveyed area from the Lease.

D. A full and accurate copy of this Lease is attached hereto as Exhibit A.

In consideration of the matters described above and the mutual benefits and obligations set forth in this Agreement and the Lease, the Parties agree as follows:

1. Construction.

This Agreement shall be construed in conjunction with the Lease and, except as amended by this Agreement, all the terms, covenants, and conditions of the Lease shall remain in full force and effect during the Additional Term and are ratified and confirmed by this instrument.

2. Defined Terms.

All terms used in this Agreement shall have the meanings assigned to them in the Lease, if any, unless otherwise defined in this Agreement.

3. Additional Lease Term.

The Additional Term shall begin on January 1, 2022 and end on June 30, 2022. The Parties may, by a separate mutual agreement, terminate this lease at any time or upon certain portions of the Subject Property. Either party may terminate the lease as to the entire Subject Property upon fifteen (15) days written notice to the other party.

4. Base Rent.

Lessee shall pay Lessee one dollar ($1.00) no later than January 14, 2022 as rent for the extended term of the Lease.

The parties have executed this Agreement the day and year first set forth above.

CLEVELAND COUNTY, NORTH CAROLINA

By: [Signature]

Phyllis Nolten
Cleveland County Clerk

CLEVELAND COUNTY FAIR ASSOCIATION, INCORPORATED

By: [Signature]

Phyllis Nolten
Cleveland County Clerk

NORTH CAROLINA

CIVIL COUNTY

The Transportation Authority of Cleveland County (TACC) has requested a resolution of support authorizing the filing of applications with the North Carolina Department of Transportation—Integrated Mobility Division for grant years FY2023–FY2027, for federal transportation assistance authorized by 49 U.S.C. 5311, United States Code, other federal statutes administered by the Federal Transit Administration or state statutes administered by the State of North Carolina.
**ACTION:** Commissioner Whetstine made a motion, seconded by Commissioner Gordon, and unanimously adopted by the Board to, approve the TACC 5311 Designee Certification resolution.

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**HUMAN RESOURCES: PERSONNEL ADVISORY COMMITTEE**

The Cleveland County Personnel Ordinance outlined established policies and procedures in employment and personnel management by providing an adequate and fair hearing of grievances for employees without regard to race, color, age, national origin, disability, sex, or religion. On October 19th, Commissioners appointed six members to the Personnel Advisory Committee. Since that time, one member has resigned from Cleveland County Government.

A recommendation has been made by Human Resources for appointment to the Personnel Advisory Committee to fill the unexpired term of that resigned member:

**Carver Hopper LeGrand Center 2 years**

**ACTION:** Commissioner Whetstine made the motion, seconded by Commissioner Gordon, and unanimously adopted by the Board, to approve the recommended board member to the Personnel Advisory Committee.
COMMISSIONERS: 2022 COMMISSIONER MEETING SCHEDULE

The Clerk to the Board included the 2022 Commissioner Regular Meeting Schedule, in Board Members packets.

ACTION: Commissioner Whetstine made the motion, seconded by Commissioner Gordon, and unanimously approved by the Board to, approve the 2022 Commissioner Regular Meeting Schedule.

PUBLIC HEARINGS

PLANNING DEPARTMENT CASE 21-27: REQUEST TO REZONE PROPERTY AT 1127 OAK GROVE ROAD FROM MANUFACTURED HOME PARKS (MH) TO LIGHT INDUSTRIAL (LI)

Chairman Bridges recognized Planning Director Chris Martin to present Planning Department case 21-27: request to rezone property at 1127 Oak Grove Road from Manufactured Home Parks (MHP) to Light Industrial (LI). Parcel 16303 is a county owned 3.35-acre tract waste collection site located at 1127 Oak Grove Road in Kings Mountain. Planning staff is the petitioner and is requesting to rezone this property from Manufactured Home Parks (MH) to Light Industrial (LI). Light Industrial (LI) zoning accommodates limited manufacturing, warehousing, wholesaling, and related commercial service activities which have little or no adverse impact upon adjoining properties.

The waste collection site on the property has operated since the 1990s before a zoning district was applied, which makes it a non-conforming use. This site is a busy location and work is being done on the property to help improve the safety and flow of traffic. The zoning districts in this area are mixed, including Manufactured Home Parks (MHP) to the south, Residential (R) and Neighborhood Business (NB) to the north, and General Business
to the east at the intersection of Stony Point and Oak Grove. The intersection of Oak Grove Road and Stony Point Road is a high-traffic area for the county and can be considered a commercial hub for this community.

The 2005 Land Use Plan shows this area as future commercial, while the 2021 Land Use Plan designates this area as a Primary Growth area where the most intense uses should be located. The current use of waste collection could be considered the most intense of those allowed in the Light Industrial (LI) district. The Planning Board unanimously recommended approval of the requested zoning map amendment. The Board felt the rezoning would be compliant with both Land Use Plans as the intended use would remain the same. They recommended Commissioners consider rezoning the county owned properties that are adjacent to parcel 16303. The following information and PowerPoint were presented to the Board.

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**Rezoning Case 21-27**

**Request**

Request to rezone property at 1127 Oak Grove Road from Manufactured Home Parks (RM) to Light Industrial (LI).

**Aerial**

**Zoning**

**Land Use Plan**

**Planning Board Recommendation**

- The Planning Board voted unanimously to approve the rezoning request.
- The Planning Board also requested that the Board consider rezoning parcel 61072 and 16303.

**Requested Action**

Approve or deny zoning map amendment for property located at 1127 Oak Grove Road from Manufactured Home Parks (RM) to Light Industrial (LI)

**QUESTIONS?**
Chairman Bridges opened the floor to the Board for questions and discussion. Commissioner Hardin asked Mr. Martin if the rezoning of the two adjacent parcels could be done during this meeting. Mr. Martin replied they could not as the proper advertising and notification had not been done for those two properties. Planning will need to start the process and bring it back before the Board for consideration.

Chairman Bridges opened the public hearing at 6:25 pm for anyone wanting to speak for or against Planning Department case 21-27: request to rezone property at 1127 Oak Grove Road from Manufactured Home Parks (MH) to Light Industrial (LI). *(Legal Notice was published in the Shelby Star on Friday, November 27, 2021, and Friday, December 4, 2021).*

Hearing no comments, Chairman Bridges closed the Public Hearing at 6:26 pm.
**ACTION:** Commissioner Gordon made the motion, seconded by Commissioner Hardin, and unanimously adopted by the Board to, approve the zoning map amendment for property located at 1127 Oak Grove Road from Manufactured Home Parks (MHP) to Light Industrial (LI) and bring parcels 61072 and 16303 back before the Board on the January 18, 2022 Commissioners’ meeting.

**REGULAR AGENDA**

**LAND USE PLAN**

Planning Director Chris Martin remained at the podium to present the Land Use Plan (LUP). Planning staff has been working on updating the LUP for over two years. They are very proud of this project, a lot of hard work has gone into this at a leadership level, with additional work from the citizens and the steering committees that have come together to create this plan. The Planning staff feels this proposed plan is going to help drive the county and give guidance going into the future. Mr. Martin introduced Jason Epley, Benchmark Planning Consultant, who has been very helpful through the process.

The LUP is mandated by the state and is meant to serve as a guide for counties and towns when making land use decisions. Ordinances, policies, zoning districts, and codes are used in the decision-making process on zoning districts in the county. Cleveland County has had two LUPs; the first one was adopted in 1995. That plan resulted in were to capitalize on county-adopted countywide zoning back in 2000. In 2005, the second LUP was adopted and approved. Some of the major results of that plan were the creation of rural residential districts and the identification of industrial sites throughout the county. There has been an abundance of change in Cleveland County since 2005. The proposed 2021 LUP is targeting growth areas. It acknowledges the rural character of Cleveland County but also incorporates the developments in the county. The 2021 LUP also encourages a Rural Residential zoning district.

The development of the 2021 LUP began in March of 2020. Over the course of the project, Staff worked with Mr. Epley and a steering committee that met eight times during the vetting process. Stakeholder listening sessions, surveys, background research and public input were also part of the development process. Topics included in the proposed plan include economic development, Agricultural and Natural Resources initiatives, recreational opportunities, tourism and housing needs. All those things led to guiding principles that formed the visions for the plan. The rural preservation area is intended to protect agricultural land, natural resources, scenic views, areas, and mostly forest land, it also has agriculture as part of these areas as well. The steering committee approved the draft LUP on September 30, 2021. The plan was then presented to the Planning Board who recommended approval of the proposed 2021 LUP at their October 2021 meeting. The following information and PowerPoint were presented to Commissioners.
Comprehensive Land Use Plan

December 7, 2020
County Commissioner Meeting

Land Use Plans & Development Ordinances

- **Land Use Plan**
  - Provides long range vision & goals
  - Serves as a policy guide
  - Promotes general welfare
  - Live, work, play

- **Development Ordinances**
  - Actions to achieve vision & goals
  - Encourage compatibility of uses
  - Promotes organized development
  - Preserves natural resources

Vision & Guiding Principles

- Land Use Plan

Zoning Districts

- Development Ordinances & Actions

- Zoning Districts
  - Compatibility
  - Preserves character
  - Maintains value

Development Standards

- Public Health & Safety
- Preserves character
- Organized use of land

Land Use Planning Background

1995 Land Use Plan

- First Comprehensive Land Use Plan
- Country-wide zoning in 2000

2005 Land Use Plan

- Rural Residential zoning district
- Identify future industrial areas
- Remove Corridor Protection district

2021 Land Use Plan

- Segment growth areas
- Encourage rural residential area
- Compliance with N.C.G.S. 160D

Changes since 2005

- Proposed Lakes
- 2008 Recession
- Major Industrial and Commercial Development
- Recent Residential Development
- US 74 Bypass Construction

Steps Leading to the Update

- 2019 - N.C.G.S 160 D
- 2019 - foothills Regional Commission recommended new Land Use Plan
- 2019 - Board of Commissioners recognized changes & directed staff to work on new plan
- 2020 - Benchmark Planning contracted to assist with the preparation of the update

Plan Organization

TABLE OF CONTENTS

1. Introduction
2. Vision & Guiding Principles
3. Land Use Plan
4. Development Ordinances

Plan Development

Background Research and Citizen Engagement

March 2020

- Launched Project
- Steering Committee Meetings
- Stakeholder Listening Sessions
- Survey 731 Responses
- Website 600+ Views
- Social Media Updates
- Background Research
  - Existing plans
  - Population, housing, economy
  - Land use
  - Natural & environmental resources
  - Utilities, and transportation

Public Input Opportunities

- **Kickoff Meeting**— September 2020
- **Discussion Panels**— April/May 2021
  1. Economic Development
  2. Agriculture and Natural Resources
  3. Community Initiatives
- **Drop-In Meetings**— September 2021
  1. Greer
  2. Ball Ground
  3. Lawrence
  4. Planning Office
**Key Planning Themes**

**PLANNING THEMES**
- RURAL LIFESTYLE
- US 74 SHELBY BYPASS
- TRAILS GREENWAYS RECREATION
- TOURISM
- HOUSING
- ATTRACT YOUNG RESIDENTS
- PARTNERSHIPS CITIES/COUNTY
- LOCATION
- ECONOMIC DEVELOPMENT
- PRIORITY GROWTH AREAS

**Guiding Principles**
(Vision for the Plan)

**County Future Land Use Map**

**Future Land Use Map**
- Rural Preservation
- Secondary Growth Area
- Priority Growth Area
- Airport Compatibility
- Towns and Cities

**Rural Preservation**
- Intended to promote the protection of agricultural lands, natural resources, and scenic views
- Landscape consists of agriculture and forest uses
- Sparse residential development
- Rural Home Occupations
- Crossroads communities
- Limit dense uses such as manufactured home parks

**Secondary Growth Area**
- Intended to promote new development at low density
- More flexibility for major subdivisions
- Manufactured home parks with density standards
- Rural Home Occupations
- Commercial uses encouraged around crossroads
- Industrial encouraged within industrial parks

**2000 Future Land Use Map**
- Similar uses grouped together
- Did not recognize RipRip
- 2 additional taken
- 6 different land use areas

**2001 Future Land Use Map**
- Similar interactions grouped together
- RipRip recognized
- 4 different land use areas
- Emphasizes targeted growth
Primary Growth Area
- Area where more intense development is likely to occur
- Primarily located along the future US 74 bypass corridor and along Highway 28 and Interstate 85
- Infrastructure (water, sewer, rail, transportation) is available to accommodate more intense uses
- Major commercial and industrial development is encouraged
- Multifamily development where utilities are present
- Residential development with smaller lots

Airport Compatibility
- Intended to protect the area around the airport from incompatible development
- Residential uses located on larger lots
- Discourages manufactured home parks and multifamily development
- Discourages high concentrations of people
- Rural Home Occupations
- Small scale commercial

Future Land Use Map

Supporting Recommendations
27 supporting recommendations were developed
- Coordination and cooperation
- Housing – new product, minimum housing
- Agriculture / Farmland preservation
- Rails-to-trails, greenways, and blueways
- Economic Development – reuse and new sites, broadband
- Tourism and historic preservation
- Use of the plan – evaluate rezonings and regular updates

Town Future Land Use Maps

Timeline
- Steering Committee – September 30, 2021
  - Approved Draft
- Planning Board – October 26, 2021
  - Recommended Approval
- Board of Commissioners – December 7th, 2021
  - Presentation
  - Request to Approve Draft or with Modifications

Action
Land Use Plan Text
1. Approve
2. Deny
3. Approve with modifications
Chairman Bridges opened the floor to the Board for questions and discussion. Commissioner Hardin commented on the much-needed rural preservation (prime farmland) that is proposed. Commissioner Whetstine spoke about the LUP and its purpose, vision and guidance.

**ACTION:** Commissioner Whetstine made a motion, seconded by Commissioner Hardin, and unanimously adopted by the Board to, **approve the Comprehensive Land Use Plan Text.** *(a full copy of the Comprehensive Land Use Plan is on file in the Clerk’s Office and the Planning Department.)*

**ACTION:** Commissioner Hardin made a motion, seconded by Commissioner Whetstine, and unanimously adopted by the Board to, **approve option B of the Comprehensive Land Use Plan Map.**

**DECRIMINALIZATION OF CERTAIN ORDNANCES (FIRST READING)**

Chairman Bridges recognized Attorney Elliot Engstrom to present the decriminalization of certain ordinances. The General Assembly recently enacted Session Law 2021-138 which is the result of a yearslong effort to standardize North Carolina’s criminal code. The session law amended two statutes governing criminal ordinances. The criminal penalty is a tool to have for when a particular offender commits an egregious violation or continues to commit repeated violations of an ordinance. The goal of this ordinance update is only to bring the County’s code into compliance with Session Law 2021-138 so that this tool is available, should it be needed.

The new session law amends two statutes related to county ordinances. First, the session law amends North Carolina General Statute § 153A-123 this is used to provide that county ordinances could be enforced criminally by default. It now provides that an ordinance may only be enforced via criminal penalty if the county specifies in the ordinance that this is the case and that any new criminal ordinances must be read at two separate meetings of the Board of Commissioners before being enacted. It also now forbids counties from imposing criminal penalties in the following ordinances:

- Any ordinance adopted under Chapter 153A Article 18 or Chapter 160D of the General Statutes – which relate to planning and development – except for those ordinances related to unsafe buildings.
- Any ordinance adopted under G.S. 153A–134, Regulating and licensing businesses, trades, etc. 1 Session Law 2021-138 was enacted September 2, 2021, with an effective date of December 1, 2021, for the provisions at issue here.
- Any ordinance adopted under G.S. 153A–138, Registration of mobile homes, house trailers, etc.
- Any ordinance adopted under G.S. 153A–140.1, Stream-clearing programs.
- Any ordinance adopted under G.S. 153A–143, Regulation of outdoor advertising or, its successor, G.S. 160D–912, Outdoor advertising.
- Any ordinance adopted under G.S. 153A–144, Limitations on regulating solar collectors or, its successor, G.S. 160D–914, Solar collectors.
• Any ordinance adopted under G.S. 153A–145, Limitations on regulating cisterns and rain barrels.
• Any ordinance regulating trees.

Second, the session law amends North Carolina General Statute § 14-4 to provide that a person may not be found guilty of a local ordinance punishable by criminal penalty if, when tried for the violation, the person produces proof of either no new alleged violations of the ordinance within 30 days from the date of the initial alleged violation or a good-faith effort to seek assistance to address any underlying factors related to unemployment, homelessness, mental health, or substance abuse that might relate to the person’s ability to comply with the local ordinance. The proposed draft ordinance aims to maintain the status quo that existed before Session Law 2021-138, to the extent that it complies with the new law. This generally means adding a criminal penalty specifically into each individual ordinance that the county has historically been able to enforce criminally unless prohibited by Session Law 2021-138. Some specific areas of the code of ordinances include:

• Animal Services. The animal services ordinances in Chapter 3 have been updated to allow for criminal penalties.
• Minimum Housing. Session Law 2021-138 prohibits the county from prescribing a criminal penalty for the violation of an ordinance enacted under Chapter 153A Article 18 or Chapter 160D of the General Statutes. Minimum housing falls within this category.

However, the County may still criminalize those portions of the Minimum Housing Code related to “unsafe buildings.” If the Board of Commissioners wishes to do so, it must first hold a public hearing, as minimum housing laws are development regulations. This proposed ordinance will be presented to Commissioners for the required second reading at their January 18, 2022, regular meeting. If approved at that time, the updates will bring the Cleveland County Code of Ordinances to bring the code into compliance with Session Law 2021-138. The following information and PowerPoint were reviewed with the Commissioners.
Why we are updating our ordinances

• Response to changes in state law

• Maintain criminal penalties as tool for ordinance enforcement if and when needed

• NOT making changes due to expected increase in criminal enforcement of ordinances

Session Law vs. Statute

• Session Law is what the General Assembly enacts.

• Statutes are the codification of the laws.

• A single session law usually modifies numerous statutes.

Before Session Law 2021-138

• County ordinances were presumptively criminal.

• Any ordinance violation could be prosecuted as a misdemeanor.

Before Session Law 2021-138

• General Assembly enacted Session Law 2018-89.

• Required all local governments to provide list of all ordinances that could be punished criminally by December 31, 2018.

• Cleveland County complied on November 29, 2018.

• General Assembly then researched criminal reforms for almost three years.

Session Law 2021-138

• Amends two statutes (for our purposes)
  • N.C.G.S. § 153A-123
  • N.C.G.S. § 14-4

Session Law 2021-138

• Amendments to N.C.G.S. § 153A-123
  • Ordinances can only be enforced criminally if county specifies
  • New criminal penalties must be read at two meetings of Board of Commissioners before being enacted.

Session Law 2021-138

• Amendments to N.C.G.S. § 153A-123 (continued)
  • County is not permitted to provide criminal penalties for several types of ordinances:
    • Planning and development (except unsafe buildings)
    • Regulating and licensing businesses and trades
    • Registration of mobile homes
    • Stream-clearing programs
    • Outdoor advertising
    • Solar collectors
    • Gisterns and rain barrels
    • Regulations on trees

Session Law 2021-138

• Amendments to N.C.G.S. § 14-4
  • A person may not be found guilty of a local ordinance punishable by criminal penalty if he produces proof of:
    • No new alleged violations within 30 days
    • Good-faith effort to seek assistance to address underlying factors related to unemployment, homelessness, mental health, or substance abuse that relate to person’s ability to comply with ordinance
Commissioners acknowledged the first reading of the decriminalization of certain ordinances and thanked Mr. Engstrom for the information presented.

**JUSTICE CENTER CAMPUS ARCHITECTURAL AND ENGINEER SELECTION**

Chairman Bridges called County Manager Brian Epley to the podium to present the Justice Center Campus architecture and engineer selection. Staff has been working on a project for a centralized Justice Center Campus, including courts, Sheriff's administration, and a new detention facility. Mr. Epley reminded the Board of their strategic plan, referring to public safety and fiscal sustainability and the methods to achieve those goals. He reviewed the project’s timeline, referring to the top priorities of the 2017 Facility Master Plan. Mr. Epley further outlined jail data analysis, public safety capital, consolidated justice center campus, and additional funding with the American recovery dollars. Mr. Epley concluded by presenting the architectural and engineering selection. The following information and PowerPoint were presented to Commissioners.
2017 – Master Facility Plan

Feasibility Study
- Engagement with Boomerang Design / Chain Planning
- Comprehensive 20-30 year study

Project Scope
1) Anchor Current Building Stock / Space Utilization
2) Future Forecasting Needs
3) Make Short / Mid / Long-Term Recommendations

Jail Data Analysis

Jail Expansion

Jail Annex (McBrayer Street)
Cleveland County Courthouse (LEC)
DISTANCE: 86 MILES
LEC – 84 beds
Annex – 353 beds

Incarceration Rate Per Capita

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2017 – Master Facility Plan

Fee Fixing
1) Consolidation of Detention Facilities
2) Law Enforcement Center & Courts
3) Records Management Policies

2017 – Master Facility Plan

This consultant top priority and recommendation was identified as the need to consolidate the Law Enforcement Center jail with the McBrayer Street Detention Center.
The Recommendation was based on:
1) Aged Facility / Inadequate Configuration….(+++)
2) Operational inefficiencies of two facilities….(++)
3) Capacity Management………………………..(++)

2017 – Master Facility Plan

Actual Population

Average Daily Population

Historical Index /ADP Analysis
Jail Standard Changes & Complexities

- Recruitment Areas per housing unit
- Additional inmate issues
- Additional camera placement requirements
- Protection of site lines to prevent sexual abuse and harassment
- Additional space/vent requirements for indoor activity areas
- Quantification of increased light in Reefhouse
- Size of cell floor ghaging increased
- Trebling to doubleticahal supervision for safety of inmates

- Lack of available staff has led to non-metalled concepts with detached control rooms.

Detention Summary

Outcomes & Identified Objectives:
1. Reconfigured modern facility w/ adequate capacity
2. Explore ideas for managed population
3. Co-locate with other justice functions

Current Courthouse Deficiencies

Building Envelope Deficiencies:
- Space Capacity
- Building Security / Flow
- Courthouse Space
- Mechanical Infrastructure
- Environmental Standards
- Public Space Standards
- Water Infrastructure
- Lack of Accessibility
- Technology Standards

Consolidated Justice Center Campus

Detention Summary

Considerations:
1. Affordability
2. Capacity/Population
3. Use

Public Safety Capital
Court House

Courthouse Envelope

Considerations:
1. Affordability
2. Building Security
3. Building Envelope & Useful Life

Existing Property

Aerial Perspective
Chairman Bridges opened the floor to the Board for questions and discussion. Commissioner Whetstine applauded the staff for the hard work that has gone into this project.

**ACTION:** Commissioner Whetstine made a motion, seconded by Commissioner Hardin, and approved by the Board (3–1, Commissioner Gordon opposed) to, *authorize the manager to negotiate with Moseley Architects on a design architectural engineering contract for the Justice Center Campus.*
There being no further business to come before the Board at this time, Commissioner Hardin made a motion, seconded by Commissioner Gordon, and unanimously adopted by the Board, to recess to reconvene. The next meeting of the Commission is scheduled for Monday, December 20, 2021 at 10:30 am in the Commissioners Chambers.

__________

Doug Bridges, Chairman
Cleveland County Board of Commissioners

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