Cleveland County Board of Commissioners May 7, 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.

Susan Allen, Chairman **PRESENT:** Ronnie Whetstine, Vice-Chair Johnny Hutchins, Commissioner Doug Bridges, Commissioner Deb Hardin, Commissioner Brian Epley, County Manager Tim Moore, County Attorney Phyllis Nowlen, Clerk to the Board Kerri Melton, Assistant County Manager Chris Green, Tax Assessor Elliot Engstrom, Senior Staff Attorney Allison Mauney, Human Resources Director Perry Davis, Emergency Management Director/Fire Marshal Ryan Wilmoth, Emergency Medical Services Director Daryl Sando, Electronic Maintenance Director Jane Shooter, Interim Social Services Director Scott Bowman, Maintenance Director Clifton Philbeck, Elections Director Sandra Orvig – Range Director Betsy Harnage, Register of Deeds

CALL TO ORDER

Chairman Allen called the meeting to order and Tax Assessor Chris Green provided the invocation and led

the audience in the Pledge of Allegiance.

<u>AGENDA ADOPTION</u>

<u>ACTION</u>: Commissioner Hardin made the motion, seconded by Commissioner Hutchins and unanimously

approved by the Board to, *approve the agenda as presented*.

SPECIAL PRESENTATION

MOTORCYLE AWARENESS MONTH

Chairman Allen recognized Commissioner Whetstine who spoke about Motorcycle Awareness Month and the importance of being observant and sharing the road with all motorists. He also pleaded for residents not to blow their grass clippings into the roadway. The clippings cause extremely dangerous road conditions for motorcycle riders. When a rider drives over grass left in the roadway it is equivalent to a car driving over a patch of

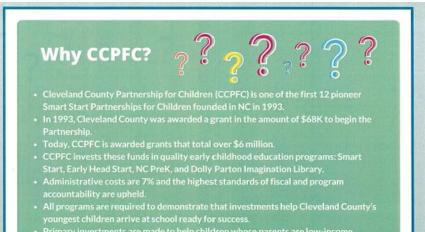
black ice. Commissioner Whetstine thanked members of the Concerned Biker's Association of Cleveland County

who were present to receive the following proclamation which was read by the Clerk:



<u>CLEVELAND COUNTY PARTNERSHIP FOR CHILDREN</u>

Chairman Allen called Sandra Jenkins, Chair of the Board and Rosie Allen, Executive Director to the podium to update the Board on the Cleveland County Partnership for Children program. The Partnership for Children promotes school readiness by planning and funding programs that help young children arrive at Kindergarten ready for school success. They form collaborative partnerships with local families, child care providers, schools, businesses, local government, agencies, organizations and the faith community to work together on behalf of young children and their families. Ms. Allen reviewed the following information to the Board.



- Primary investments are made to help clinicitent whose parents are row-income, working and/or furthering their own education.
 The estimated population of children age 0-5 in Cleveland County is 5,630 and our programs currently serve 2,172 of those children.

Why Invest in Early Childhood?



Nobel Prize-winning economist, James Heckman found investments in highuality early education results in fewer special ed placements, higher graduation rates, reduced crime, higher earnings and less reliance on social services.

- Only about 15% of the children who are eligible for DSS subsidy are being served. There are currently 455 low-income children on the DSS childcare waiting list. These children will most likely not be enrolled in a quality early child care program prior to entering Kindergarten.
- 27% of the children in Cleveland County are living in poverty compared to 21% in NC.
- 70% of our school-age children receive free and reduced-priced meals at school.
- 96% of parents surveyed believe CCPFC funded services have been very helpful in preparing their children for Kindergarten.
- 94% of licensed child care programs in our county have maintained or achieved a higher level of early care and education and licensure.
- The annual cost of child care in Cleveland County at a 4 or 5-star center is \$8,800.

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CITIZEN RECOGNITION

Alton Beal, Mayor of Lattimore, 104 N. Lee St., Lattimore - spoke in opposition of the casino. Mayor Beal stated in the Sunday, May 5, 2019, edition of the Shelby Star 1,200 names of those opposing the casino were published. A copy of the paper was presented to each Commissioner. He reviewed several statistics that show the possible negative outcomes to communities in the radius of a casino and asked the Commissioners to reconsider their stand on the casino. He advised, people are not opposed to the Cherokee or Catawba Indian Nations; they are opposed to an industry that has the potential to bring damaging consequences to Cleveland County and the citizens.

CONSENT AGENDA

APPROVAL OF MINUTES

The Clerk to the Board included the Minutes from the March 19, 2019 and April 2, 2019 Regular

Commissioners Meeting, and Minutes from the April 12, 2019 Recess to Reconvene Commissioners Meeting in

board members packets.

<u>ACTION:</u> Commissioner Bridges made a motion, seconded by Commissioner Whetstine, and passed

unanimously by the Board to, *approve the minutes as written*.

MANAGER'S MONTHLY REPORT

- The Register of Deeds department continues to exceed prior year's revenue totals with \$400,000 collected year to date. This is in comparison to \$335,000 collected at this time prior year. Passport revenue year to date is approximately \$15,000 compared to \$0 in the prior year.
- The County's Central Collections department continues to perform at a high level for the second year in a row. EMS revenues collected year to date total \$2.3 million compared to \$1.9 million at this same time last year. The majority of the increase in current year revenues is derived from insurance fees. Insurance fees total \$1.1 million year to date compared to \$500,000 at this same time prior year. This increase is due to an average billing lag time of less than one day.
- The County's audit contract with Thompson, Price, Scott and Adams (TPSA) has been approved by the Local Government Commission and interim work is scheduled to begin in early summer. This will be year two with TPSA.

County of Cleveland, North Carolina Presented at the May 7, 2019 BOC Meeting Time Period Covered 4/1/19 - 4/30/19 - Fiscal Year Ending June 30, 2019 Departmental Line Item and Lateral Transfers

D = Departmental Transfers

L = Lateral Transfer BUDGET TYPE	DEPT NAME TO	EXPLANATION	BUDGET AMOUNT	
D	HIth Admin	To cover new ice maker for boardroom	\$ 1,8	73
D	TB/STD/CD & Nurse Family Partnership	To cover postage and professional services	\$ 3,80	00
D	Employee Wellness	To cover travel/training & dept fees	\$ 1,1	53
L	Building Inspections	To cover purchase Ford F150 & Hwy use tax	\$ 18,5	40
D	Cooperative Ext	To cover purchase of range for Kitchen 2		686
D	Economic Dev	To cover funds for site development Foothill Commerce Center	\$ 75,8	\$74
D	Emergency Management	To cover department supplies	\$ 4,00	00
D	Maintenance	To cover auto supplies; capital equipment	\$ 2,2	12
D	Hith Dept-WIC	To cover advertising/promotions	\$ 8	353
D	Hith Dept-Adult Hith	To cover pharmacy fees and professional servs	\$ 8,00	00
L	Detention Ctr	To cover purchase of new transit van & hwy use tax	\$ 26,4	52
D	Court Facilities	To cover laptop for DA	\$ 1,3	80
D	Animal Control	To cover Republic Services -trash agreement	\$ 1,50	00
L	Municipal Grants	Tfr App FB set aside for ADA playgrounds @ COS and Town of Polkville that are being paid out of Partners FB.	\$ 154,54	545
L	Court Facilities	To cover contract w/Moseley Architects for Courthouse planning needs	\$ 29,9	50
L	Detention Ctr	To cover purchase of new LiveScan Xray system	\$ 23,8	75
L	Planning / Zoning	To cover funds for GIS Server	\$ 17,8	52
L	Municipal Grants	To cover funds given to Liberty Mountain and Destination Clev Co	\$ 12,82	27
D	LeGrand Center	To cover department supplies; controlled property, licenses and professional servs	\$ 9,2	94

SHERIFF'S OFFICE: BUDGET AMENDMENT (BNA #040)

ACTION: Commissioner Bridges made a motion, seconded by Commissioner Whetstine, and unanimously

adopted by the Board to, approve the following budget amendment:

Account NumberProject CodeDepartment/Account NameIncreaseDecrease010.441.4.810.00Sheriff's Office/Donations-Contributions\$29,475.00010.441.5.790.00Sheriff's Office/Donations-Contributions\$29,475.00Explanation of Revisions:Budget allocation for \$29,475 in funds received from Wright Foundation (\$20,000) for
the purchase of AED's and budget the remainder of donated funds received.Superior

REGULAR AGENDA

ADVANCED MANUFACTURING UPDATE

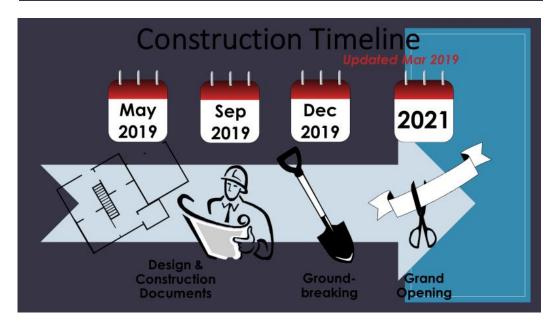
Chairman Allen recognized County Manager Brian Epley to present an update on the the Advanced

Manufacturing Center project (AMC). The County and Cleveland Community College, continue to work together

and implement strategies to build a strong positive workforce in the community. It is a unique situation to have

more jobs than available skilled workers. Mr. Epley reviewed the following information to the Board.



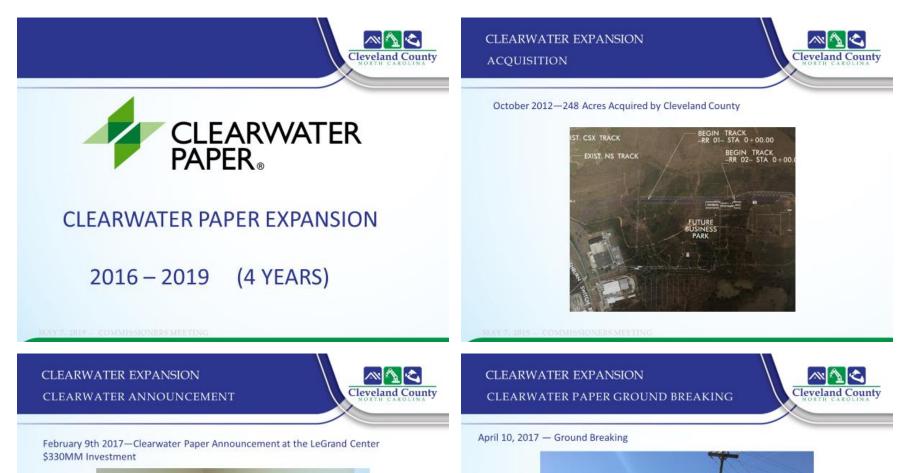


Chairman Allen opened the floor to the Board for questions and discussion. Each Commissioner commented on the positive impact and growth the AMC will have in the community and for the citizens. It will keep Cleveland County moving forward and competitive in the job market.

CLEARWATER SITE TWO UPDATE

Chairman Allen called Greg Pering, County Engineer, to the podium to give a progress update on Clearwater's Site Two. The remaining infrastructure work left to perform is on the truck entrance off Washburn Switch Road called Customer First Drive and the erection of the new water tower. CSX needs to install barrier type railroad signals on Customer First Drive. Once these are installed, the county will need to repair the road to the railroad crossing. It is anticipated that this will be completed by the end of 2019. Customer First Drive has been accepted by the North Carolina Department of Transportation (NCDOT). The City of Shelby will only accept Customer First Drive for maintenance once the new signals are installed and the road repaired at the railroad crossing. The new water tower is currently being built and will be completed by September 30, 2019. This does not impact Clearwater Paper production. Other key follow-ups include:

- Sewer System is complete and capable of 750,000 gallons per day
- Natural Gas Lines are complete and capable of supplying current and future gas requirements
- Water Lines are complete and capable of supplying current and future consumption needs

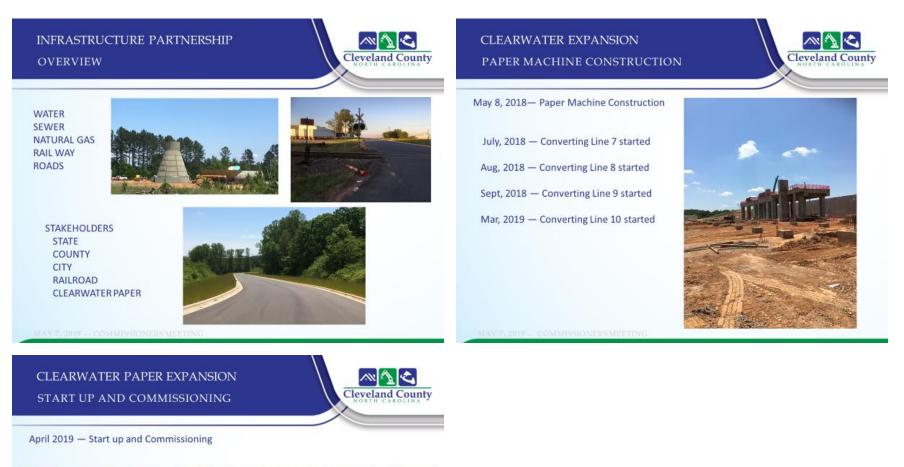




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MAY 7. 2019 - COMMISSIONERSMEETING

Chairman Allen opened the floor to the Board for questions and comments. Commissioner Hutchins stated this has been a great project and well received within the community. Commissioner Whetstine inquired if Clearwater Paper has been able to ship any of the product yet from the new site; Mr. Pering stated they have. The Board thanked Mr. Pering for his hard work and role in this project.

<u>PLANNING DEPARTMENT CASE 19-04: REQUEST TO RE-ZONE PROPERTY ON PRINCESS</u> LANE FROM RESTRICTED RESIDENTIAL TO LIGHT INDUSTRIAL-CONDITIONAL DISTRICT

Chairman Allen recognized Senior Planner Chris Martin to present Planning Department Case 19-04; request to re-zone property on Princess Lane from Restricted Residential (RR) to Light Industrial-Conditional District (LI-CD). Mr. Martin reminded the Board they held a public hearing at the April 2, 2019 Regular Commissioners Meeting and postponed their decision asking staff to present this case to the Planning Board for a

second time to further explore any conditions that would help the property be compatible with the area around it

and the Land Use Plan. Mr. Martin reviewed the information from the rezoning request; Stephen Fisher is

requesting to rezone property from Restricted Residential (RR) to Light Industrial-Conditional Use District (LI-

CD) to operate a green waste facility. At the last Planning Board meeting, the Board recommended County

Commissioners allow more time for research of the property and more time to consider any conditions that may

help the use be compatible with the surrounding properties.

The property is approximately forty acres and consists of four adjoining parcels. It is located on Princess

Lane, off Highway 180 behind Fisher's Tree Service and Christine's Homes, and adjoining the future 74 Bypass.

Mr. Fisher has acquired the property and wishes to operate a mulch producing and green waste recycling facility on the large parcel and leave the four adjoining parcels as residential to provide an additional buffer to the neighborhood nearby. He has submitted an application and site plan showing how the property will be used. This business will accept green waste, such as grass clippings, leaves, limbs, trees, and stumps, and then recycle the material into mulch and firewood. Mr. Fisher has provided an updated site plan showing that, since the last meeting, the stump storage area has been relocated. It provides more separation from the neighborhood to the north. It shows an added proposed berm, separating Mr. Fisher's property and the future By-pass from the neighborhood with Leyland cypress, loblolly pines, and holly trees installed along the berm.

This type of facility requires the owner to apply for and comply with a North Carolina Department of Environmental Quality (NCDEQ) permit. Mr. Fisher has been in contact with NCDEQ and understands their requirements such as fire prevention, composting/mulching methods and that an annual log is to be kept. The Land Use Plan designates the proposed property as future residential, while showing the east side of Hwy 180 as future Industrial. The surrounding uses are mixed and consist of: Future 74, a neighborhood to the north, Spake's Concrete, warehousing, tree service business, mixed residential, landscaping and nursery, rental storage units and lamp manufacturing.

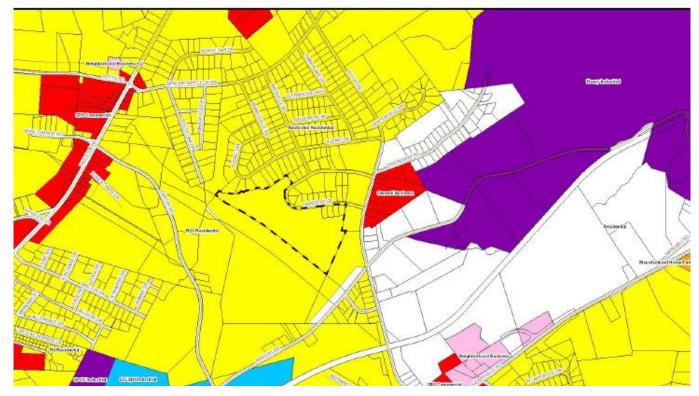
Per State Statute, approval of this rezoning would require the existing Industrial designation to be expanded to cover Mr. Fisher's property. The Planning Board voted unanimously to recommend approval of the rezoning request which will allow Fisher's Tree Service to operate a Green Waste Facility with conditions and to designate this area as future light/heavy industrial on the Land Use Plan. The Planning Board feels this area has changed since the Land Use Plan was adopted in 2005. The future uses will be industrial in nature instead of residential for several reasons including construction of the Bypass and the fact that existing uses around the site are primarily industrial and commercial. The Planning Board recommends the following conditions:

- Hours of operation 8:00am 5:00pm; Monday Friday
- Locate semi-fixed and permanent equipment south and east of the access drive
- Provide Type A screening per Section 12-305 of the Cleveland County Ordinance. Additionally, install small to medium height ornamental trees no more than twenty-five feet on center along the Scenic Drive property lines
- Obtain any required permits from NCDEQ Division of Waste Management and provide a copy of the approved permit to the Planning Department.
- Obtain any required permits from NCDEQ Division of Waste Resources and provide a copy of the approved permit to the Planning Department.
- Obtain any required permits from NCDEQ Division of Air Quality and provide a copy of the approved permit to the Planning Department.
- Provide an updated site plan to the Planning Department showing compliance with any approved conditions.

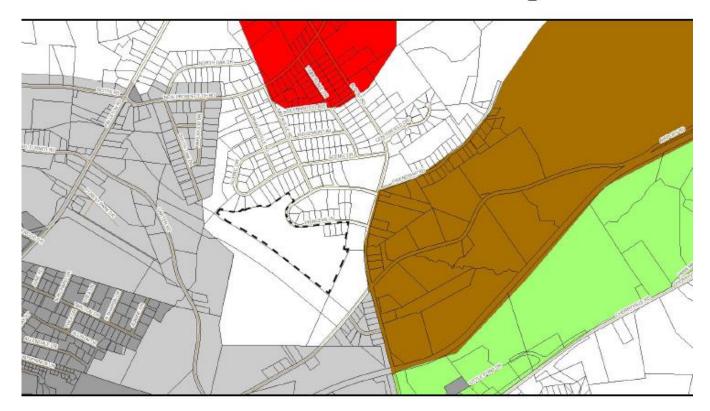
Case 19-04 Aerial Map

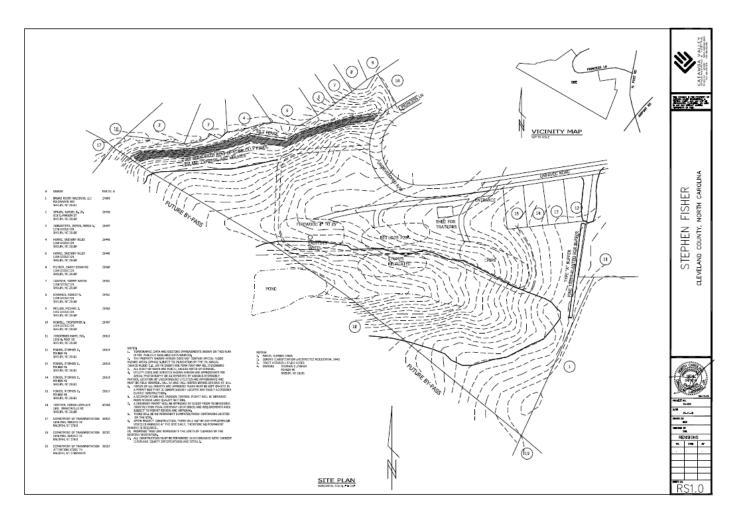


Case 19-04 Zoning Map



Case 19-04 Land Use Map





Chairman Allen opened the floor to the Board for questions and discussion. Commissioner Hutchins stated "many businesses have hours of operation on the weekends, could the business hours be modified to incorporate some time on Saturday" Commissioner Whetstine inquired in the hours of operation on Saturday would be for strictly the moving of equipment or the accepting of tree debris? Mr. Martin stated there are two parts of the business operation; one is the accepting of green waste and two is the operation of the heavy machinery that does create loud noises. The Board does have the option to make this modification in their decision. Commissioner Hardin asked if Mr. Fisher could come back and ask for a modification in his business hours at a later time; Mr. Martin replied he could. The Board had further discussion regarding the hours of operation and whether to include any time on Saturday. Commissioners called Stephen Fisher to the podium to explain the details and what hours of operation he is requesting.

Stephen Fisher, 1323 North Post Road, Shelby – advised the process of recycling can be done during the hours of operation 8:00am – 5:00pm; Monday – Friday. His biggest concern is for the citizens and his business to be able to drop off tree debris on Saturdays when there has been a storm or a major clean up is needed.

Commissioner Hardin asked Mr. Fisher what his current process is now for unloading debris on the

weekends. Mr. Fisher advised they do whatever they can to make the clean up and removal happen, even unloading

the debris at his own residence until Monday morning if need be.

<u>ACTION:</u> Commissioner Hutchins made the motion, seconded by Commissioner Bridges, and unanimously

approved by the Board to, approve the rezoning request and to extend the light industrial designation on the land

use plan, as the planning board recommends with the following amendment:

1. Hours of recycling business and equipment operation 8:00am – 5:00pm; Monday – Friday, other business activities permitted at any other time.

CLOSED SESSION

ACTION: Commissioner Hardin made the motion, seconded by Commissioner Bridges, and unanimously

adopted by the Board, to go into closed session per N.C.G.S. 143-318.11(a)(5) and (a)(6) to consider a personnel

matter and to establish the terms of an employment contract. (Copy of closed session minutes are sealed and

found in Closed Session Minute Book).

<u>RECONVENE IN REGULAR SESSION</u>

ACTION: Commissioner Hutchins made the motion, seconded by Commissioner Bridges, and unanimously

adopted by the Board to, *reconvene in open session*.

Chairman Allen announced the Board took action in closed session and unanimously approved an

employment contract for the Clerk to the Board.

CLERK TO THE BOARD EMPLOYMENT CONTRACT

THIS AGREEMENT is made and entered into as of this 7th day of May, 2019, between Cleveland County, North Carolina, a political subdivision of the State of North Carolina (hereinafter "Employee"), and Phyllis Nowlen (hereinafter "Employee").

WHEREAS, Employer desires to employ the services of Employee as Clerk to the Board of Commissioners of Cleveland County as provided by North Carolina General Statute § 153A-111; and

WHEREAS, it is the desire of both parties to establish certain terms and conditions of employment and to set working conditions of said Employee; and

WHEREAS, it is the desire of Employer to (1) secure and retain the services of Employee and to provide incentives for her to remain in such employment, (2) make possible full work productivity by assuring Employee's morale and peace of mind with respect to future security, (3) act as a deterrent against malfeasance or dishonesty for poroonal gain on the part of the Employee, and (4) provide a just means for terminating employee's services at such time as she may be unable to fully discharge her duties;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

I. DUTIES:

Employer hereby agrees to employ Employee as Clerk to the Board of Commissioners, to perform the functions and duties specified in the General Statutes of the State of North Carolina, ordinances of the Employer, and policies heretofore and hereafter adopted by Employer, and to perform other legally permissible and proper duties and functions as may be assigned by Employer.

II. TERM:

a. This Agreement shall be for a Term of two years. At the end of the Term, the Agreement shall automatically renew for subsequent terms of two years unless either party provides written notice of its intent not to renew this Agreement at least three (3) months prior to the end of the current term.

b. Either party may terminate this Agreement in accordance with Section III below.

III. TERMINATION AND SEVERANCE PAY:

a. In the event Employee is discharged by the Board of Commissioners without cause, and during such time Employee is willing to perform her duties under this Agreement, then, and in that event, the Employer shall continue to pay to the Employee her then-existing salary, together with all other benefits on a regular payroll schedule of the Employer, for 13 regular pay periods. After Employer has paid Employee for these 13 regular pay periods, this Agreement shall be terminated.

b. Notwithstanding the above, in the event Employee is discharged with cause or because of her conviction of any illegal act involving personal gain to her, her conviction of a felony, or her commission of any act which involves moral turpitude, then, and in that event, Employer may immediately terminate this Agreement and shall have no obligation to pay the severance sums designated in Paragraph III(a).

IV. SALARY AND BENEFITS:

 Employer agrees to pay Employee a base salary of Fifty-Five Thousand Five Hundred Dollars (\$55,500) payable in installments at the same time as other employees of Employer are paid.

Employer agrees to provide Employee with the same benefits as other full-time employees who are similarly situated to Employee.

c. Employer agrees to provide Employee with such other fringe benefits as other employees of Employer receive, including paid holidays, vacation and sick accruals, and participation in the NC Local Government Employment Retirement System.

 Employer agrees to increase said base salary and/or other benefits of Employee to remain consistent with amounts provided to other employees.

e. Employer agrees to provide an annual performance evaluation of Employee at the anniversary date of her employment, unless such other annual review date as may be agreed upon by the parties to this Agreement.

- V. GENERAL PROVISIONS:
- a. This Agreement shall constitute the entire agreement between the parties.
- b. This Agreement shall become effective on May 15, 2019 after both parties

signing of the agreement.

c. If any provision or portion of this Agreement is held unconstitutional or unenforceable, the remainder of this Agreement shall be deemed severable, shall not be affected, and shall remain in full force and effect.

d. This Agreement was executed under the laws of the State of North Carolina and shall be construed in accordance therewith. Any legal action that may be brought as a result of this Agreement must be brought in the General Court of Justice sitting in Cleveland County, North Carolina.

e. This Agreement is not final, and Employee's contract is not effective, until final action approving this Agreement is taken by the Cleveland County Board of Commissioners.

IN WITNESS WHEREOF, the Board of Commissioners of Cleveland County has caused this Agreement to be signed and executed on its behalf by its Chair and Employee has signed and executed this Agreement, both in duplicate, the day and year first above written.

Cleveland County Board of Commissioners

By: Susan Allen, Chair

Employee:

By: Phyllip Nowlen

<u>ADJOURN</u>

There being no further business to come before the Board at this time, Commissioner Whetstine made a motion, seconded by Commissioner Hutchins, and unanimously adopted by the Board, *to adjourn the meeting*. The next meeting of the Commission is scheduled for *Tuesday, May 21, 2019 at 6:00 p.m. in the Commissioners Chambers located at 311 E. Marion St., Shelby*.

Susan Allen, Chairman Cleveland County Board of Commissioners

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