

Cleveland County Board of Commissioners
June 21, 2022

****Clerk's Note: This regular meeting of the Cleveland County Board of Commissioners was a hybrid meeting. Notice/instructions of how to participate were emailed to the Sunshine List, posted on the county's website, on the outside doors of the County Administration Building and on the Commissioner's Chamber doors. A roll call vote was completed on each action item due to Commissioner Hutchins participating via teleconference.**

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: Kevin Gordon, Chairman
Deb Hardin, Vice-Chair
Johnny Hutchins, Commissioner *via teleconference*
Ronnie Whetstine, Commissioner
Doug Bridges, Commissioner
Tim Moore, County Attorney *via teleconference*
Brian Epley, County Manager
Phyllis Nowlen, Clerk to the Board
Kerri Melton, Assistant County Manager
Katie Swanson, Social Services Director
Martha Thompson, Chief Deputy Attorney
Allison Mauney, Human Resources Director
Sherry Lavender, Tax Assessor
Betsy Harnage, Register of Deeds

CALL TO ORDER

Chairman Gordon 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 Whetstine and unanimously adopted by the Board to, *approve the agenda as presented.*

CITIZEN RECOGNITION

John O'Malley, 113 Sellers Road, Kings Mountain – spoke about the ongoing nuisance issue regarding the upgraded lights at Midway Lakes. He gave a brief review of the problem and asked Commissioners to look into this matter further.

Robert Williams, 814 E. Stagecoach Trl, Lawndale – spoke about the 2022 Revaluation Planning and Update which is included on the regular agenda for this meeting. Mr. Williams gave his opinion on how Commissioners should proceed with the next revaluation.

CONSENT AGENDA

TAX COLLECTOR'S MONTHLY REPORT

The Tax Collector provided Commissioners with the following detailed written report regarding taxes collected during *May 2022.*

TOTAL TAXES COLLECTED MAY 2022				
YEAR	AMOUNT-REAL	AMOUNT-VEHI.	AMOUNT-GAP	COMBINED AMT
DEF REV	\$0.00	\$0.00	\$0.00	\$0.00
2021	\$203,424.98	\$0.00	\$3,991.86	\$207,416.84
2020	\$25,236.72	\$0.00	\$2,587.49	\$27,824.21
2019	\$15,862.55	\$0.00	\$0.00	\$15,862.55
2018	\$8,796.97	\$0.00	\$0.00	\$8,796.97
2017	\$5,581.49	\$0.00	\$0.00	\$5,581.49
2016	\$2,703.43	\$0.00	\$0.00	\$2,703.43
2015	\$1,969.91	\$0.00	\$0.00	\$1,969.91
2014	\$1,566.25	\$0.00	\$0.00	\$1,566.25
2013	\$748.45	\$0.00	\$0.00	\$748.45
2012	\$664.33	\$0.00	\$0.00	\$664.33
2011	\$0.00	\$0.00	\$0.00	\$0.00
				\$273,134.43
TOTALS	\$266,555.08	\$0.00	\$6,579.35	\$273,134.43
DISCOUNT	(\$15.26)			
INTEREST	\$25,522.05	\$0.00	\$680.74	
TOLERANCE	(\$5.30)	\$0.00	(\$4.92)	
ADVERTISING	\$757.31	VEHICLE FEES	GAP BILL FEES	DEFERRED GAP
GARNISHMENT	\$7,563.94	\$0.00	\$889.29	\$1,080.74
NSF/ATTY	\$0.02			
LEGAL FEES	\$0.00			
TOTALS	\$300,377.84	\$0.00	\$8,144.46	
MISC FEE	\$21.13			GRAND TOTAL
TAXES COLL	\$300,398.97			\$308,543.43
DEF	\$2,258.43		DEF	\$1,080.74
DISC	(\$9.20)		TOL	\$0.00
TOL	\$0.00		INT	\$0.00
INT	\$43.50			
TOTAL TAXES UNCOLLECTED MAY 2022				
	AMOUNT-REAL	AMOUNT-VEHI.	AMOUNT-GAP	COMBINED AMT
2021	\$1,656,852.03	\$0.00	\$99,715.13	\$1,756,567.16
2020	\$758,496.54	\$0.00	\$48,651.05	\$807,147.59
2019	\$685,292.86	\$0.00	\$0.00	\$685,292.86
2018	\$369,336.47	\$0.00	\$0.00	\$369,336.47
2017	\$226,464.28	\$0.00	\$0.00	\$226,464.28
2016	\$164,782.54	\$0.00	\$0.00	\$164,782.54
2015	\$134,635.53	\$0.00	\$0.00	\$134,635.53
2014	\$137,464.78	\$0.00	\$0.00	\$137,464.78
2013	\$102,038.36	\$0.00	\$0.00	\$102,038.36
2012	\$81,385.15	\$0.00	\$0.00	\$81,385.15
2011	\$0.00	\$0.00	\$0.00	\$0.00
	\$4,316,748.54	\$0.00	\$148,366.18	\$4,465,114.72
DEF REV	\$608,493.18	\$0.00	\$81,751.72	\$690,244.90
TOTAL UNCOLLECTED	\$4,925,241.72	\$0.00	\$230,117.90	\$5,155,359.62

TAX ABATEMENTS AND SUPPLEMENTS/ PENDING REFUNDS & RELEASES

The Tax Assessor provided Commissioners with a detailed written report regarding tax abatements and supplements during *May 2022*. The monthly grand total of tax abatements was listed as (\$4,877.24) and the monthly grand total for tax supplements was listed as \$11,629.36.

The Tax Administration Office is requesting the release of \$27,334.67 to HSCM LLC for a Property Tax Commission Appeal settlement. The County Tax Assessor has reviewed the request and advised it is in order for Board approval.

ACTION: Commissioner Hardin made the motion, seconded by Commissioner Bridges, and unanimously adopted by the Board, *to approve the pending refunds and releases as submitted by the Tax Assessor.*

PENDING REFUNDS / RELEASES (RECOMMENDED FOR APPROVAL)										
June 21, 2022										
The following requests have been reviewed by the County Assessor and found to be in order. They are hereby submitted for approval by the Cleveland County Board of Commissioners per G.S. 105-381. Supporting documentation is on file in the County Assessor's Office. Staff Recommendation: Approve Requests.										
Name	Year	Receipt	Note	Requested Value Change	District	Tax Rate	Taxes, Fees & Interest	Paid	Request	
									Release	Refund
HSCM LLC	2017	4257914	Property Tax Commission Appeal Settlement	91,504	5	1.2172	\$1,113.79	\$2,059.31		\$1,113.79
HSCM LLC	2018	4345310	Property Tax Commission Appeal Settlement	91,504	5	1.2425	\$1,136.94	\$2,102.12		\$1,136.94
HSCM LLC	2019	4433330	Property Tax Commission Appeal Settlement	91,504	5	1.2425	\$1,136.94	\$2,102.12		\$1,136.94
HSCM LLC	2020	4612530	Property Tax Commission Appeal Settlement	91,504	5	1.2425	\$1,136.94	\$2,102.12		\$1,136.94
HSCM LLC	2017	4257916	Property Tax Commission Appeal Settlement	97,293	5	1.2172	\$1,184.25	\$2,518.76		\$1,184.25
HSCM LLC	2018	4345312	Property Tax Commission Appeal Settlement	97,293	5	1.2425	\$1,208.87	\$2,571.12		\$1,208.87
HSCM LLC	2019	4433332	Property Tax Commission Appeal Settlement	97,293	5	1.2425	\$1,208.87	\$2,571.12		\$1,208.87
HSCM LLC	2020	4612532	Property Tax Commission Appeal Settlement	97,293	5	1.2425	\$1,208.87	\$2,571.12		\$1,208.87
HSCM LLC	2017	4257917	Property Tax Commission Appeal Settlement	143,609	5	1.2172	\$1,748.01	\$2,583.53		\$1,748.01
HSCM LLC	2018	4345313	Property Tax Commission Appeal Settlement	143,609	5	1.2425	\$1,784.34	\$2,637.23		\$1,784.34
HSCM LLC	2019	4433333	Property Tax Commission Appeal Settlement	143,609	5	1.2425	\$1,784.34	\$2,637.23		\$1,784.34
HSCM LLC	2020	4612533	Property Tax Commission Appeal Settlement	143,609	5	1.2425	\$1,784.34	\$2,637.23		\$1,784.34
HSCM LLC	2017	4257912	Property Tax Commission Appeal Settlement	79,382	5	1.2172	\$966.24	\$1,742.52		\$966.24
HSCM LLC	2018	4345308	Property Tax Commission Appeal Settlement	79,382	5	1.2425	\$986.32	\$1,778.74		\$986.32
HSCM LLC	2019	4433328	Property Tax Commission Appeal Settlement	79,382	5	1.2425	\$986.32	\$1,778.74		\$986.32
HSCM LLC	2020	4612528	Property Tax Commission Appeal Settlement	79,382	5	1.2425	\$986.32	\$1,778.74		\$986.32
HSCM LLC	2017	4257913	Property Tax Commission Appeal Settlement	79,560	5	1.2172	\$968.40	\$1,634.60		\$968.40
HSCM LLC	2018	4345309	Property Tax Commission Appeal Settlement	79,560	5	1.2425	\$988.53	\$1,668.58		\$988.53
HSCM LLC	2019	4433329	Property Tax Commission Appeal Settlement	79,560	5	1.2425	\$988.53	\$1,668.58		\$988.53
HSCM LLC	2020	4612529	Property Tax Commission Appeal Settlement	79,560	5	1.2425	\$988.53	\$1,668.58		\$988.53
HSCM LLC	2020	4614287	Property Tax Commission Appeal Settlement	244,586	5	1.2425	\$3,038.98	\$5,811.78		\$3,038.98
									TOT	0.00
PENDING REFUNDS / RELEASES (RECOMMENDED FOR DENIAL)										
The following requests have been reviewed by the County Assessor. The stated request does not constitute a valid defense to the tax imposed or any part thereof, as provided in G.S. 105-381. Supporting documentation is on file in the County Assessor's Office. Staff recommendation: Deny requests.										
Name	Year	Receipt	Note	Requested Value Change	District	Tax Rate	Taxes, Fees & Interest	Paid	Request	
									Release	Refund
									TOT	0.00

EMERGENCY MANAGEMENT: BUDGET AMENDMENT (BNA #065)

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

Account Number	Project Code	Department/Account Name	Increase	Decrease
010.445.4.310.00	97042-EMPG	Emergency Management/Federal Govt Grants	\$36,150.00	
010.445.5.121.00	97042-EMPG	Emergency Management/Salaries-Wages-Reg	\$36,150.00	
010.445.4.310.00	97042-EMPG	Emergency Management/Federal Govt Grants	\$15,320.00	
010.445.5.910.00	97042-EMPG	Emergency Management/Capital Equipment	\$15,320.00	

Explanation of Revisions: Budget allocation for \$36,150 in grant monies received from the Emergency Management Performance Grant (EMPG). Funds will be used for salaries and new equipment.

SHERIFF'S OFFICE: BUDGET AMENDMENT (BNA #066)

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

Account Number	Project Code	Department/Account Name	Increase	Decrease
010.444.4.350.00	NURSE-RFA399	Detention Center/State Govt Grants	\$94,511.00	
010.444.5.420.00	NURSE-RFA399	Detention Center/Contracted Services	\$49,920.00	
010.444.5.910.00	NURSE-RFA399	Detention Center/Capital Equipment	\$40,000.00	
010.444.5.210.00	NURSE-RFA399	Detention Center/Departmental Supply	\$3,891.00	
010.444.5.210.00	NURSE-RFA399	Detention Center/Departmental Supply	\$700.00	

Explanation of Revisions: Budget allocation for \$94,511 in grant funds received from the North Carolina Department of Health and Human Services for the detection and mitigation of COVID-19 in Confinement Facilities. These funds will be used for an additional nurse two days a week for a two-year period, testing equipment, technology and covid tests.

REGISTER OF DEEDS: BUDGET AMENDMENT (BNA #067)

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

Account Number	Project Code	Department/Account Name	Increase	Decrease
010.419.4.350.00		Register of Deeds/State Govt Grants	\$2,000.00	

010.419.5.490.00 Register of Deeds/Professional Services \$2,000.00
Explanation of Revisions: Budget allocation for \$2,000 in funds received from the North Carolina Office of State Budget and Management to be used for the "Time Machine" project of scanning and indexing of real property records and deeds dating back to 1964.

REGISTER OF DEEDS: BUDGET AMENDMENT (BNA #068)

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

<i>Account Number</i>	<i>Project Code</i>	<i>Department/Account Name</i>	<i>Increase</i>	<i>Decrease</i>
010.419.4.810.00		Register of Deeds/Donations-Contributions	\$2,000.00	
010.419.5.790.00		Register of Deeds/Donations-Contributions	\$2,000.00	

Explanation of Revisions: Budget allocation for \$2,000 in funds received from the Historic Shelby Foundation to be used for the "Time Machine" project of scanning and indexing of real property records and deeds dating back to 1964.

SHERIFF'S OFFICE: BUDGET AMENDMENT (BNA #069)

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

<i>Account Number</i>	<i>Project Code</i>	<i>Department/Account Name</i>	<i>Increase</i>	<i>Decrease</i>
010.441.4.810.37		Sheriff's Dept/Donations-Chaplains Fds	\$20,000.00	
010.441.5.790.37		Sheriff's Dept/Donations-Chaplains Fds	\$20,000.00	

Explanation of Revisions: Budget allocation for \$20,000 in donated funds received from the Shelby Civitan Club for the Chaplain's Fund "In God We Trust" to be used for short-term assistance to those in need.

SHERIFF'S OFFICE: BUDGET AMENDMENT (BNA #070)

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

<i>Account Number</i>	<i>Project Code</i>	<i>Department/Account Name</i>	<i>Increase</i>	<i>Decrease</i>
010.443.4.810.09		State Forfeiture Property/Donations-Cap Equip-Genrl	\$5,520.00	
010.443.5.790.09		State Forfeiture Property/Donations-Cap Equip-Genrl	\$5,520.00	

Explanation of Revisions: Budget allocation for \$5,520 in donation value of 2012 Volkswagen Jetta received through a court order (State Forfeiture Property).

FINANCE DEPARTMENT: BUDGET AMENDMENT (BNA #071)

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

<i>Account Number</i>	<i>Project Code</i>	<i>Department/Account Name</i>	<i>Increase</i>	<i>Decrease</i>
066.661.4.510.75		Dental insurance/Dental Insurance Premiums	\$25,000.00	
066.661.5.234.00		Dental insurance/Dental Insurance Claims	\$25,000.00	
060.651.5.586.08		Property-Liability/Excess Stop Loss	\$100,000.00	
060.651.4.465.00		Property-Liability/Admin Services Allocation	\$100,000.00	
065.981.5.233.00		Health Insurance/BCBS Weekly Claims	\$50,000.00	
065.981.4.991.00		Health Insurance/Fund Balance Appropriated	\$50,000.00	
010.410.4.980.27		General Revenues/Transfers from ARPA	\$9,028,143.00	
010.981.5.890.00		Fund Transfers/Interfund Transfers	\$9,028,143.00	
010.410.4.991.00		General Revenues/ Fund Balance Appropriated	\$5,000,000.00	
010.981.5.890.00		Fund Transfers/ Interfund Transfers	\$5,000,000.00	
493.250.4.980.10		Cap Proj-Justice Ctr Campus/Contributions from PRI FD	\$9,028,143.00	
493.250.5.420.00		Cap Proj-Justice Ctr Campus/Contracted Services	\$9,028,143.00	

Explanation of Revisions: Budget allocation for \$14,203,143 in remaining budget allocations for year-end financial closing.

PLANNING DEPARTMENT: REQUEST TO SET PUBLIC HEARING FOR TUESDAY, JUNE 12, 2022 FOR CASE 22-22: TEXT AMENDMENT TO SECTION 12-142 OF THE CLEVELAND COUNTY UNIFIED DEVELOPMENT ORDINANCE

Grover Industries, LLC is requesting to amend the Table of Uses, Section 12-124 of the Cleveland County Unified Development Ordinance (UDO) to add Data Centers (NAICS 518210) to the Light Industrial (LI) and Heavy Industrial (HI) zoning districts as a permitted use. Data Centers comprise of establishments primarily engaged in providing infrastructure for hosting or data processing services. The county's code is based on the 2012 NAICS and currently does not include data centers, or any similar uses as a compliant use in any of the defined zoning districts.

ACTION: Commissioner Hardin made a motion, seconded by Commissioner Bridges, and unanimously adopted by the Board to, *approve setting the public hearing as requested.*

LEGAL DEPARTMENT: SOLID WASTE FRANCHISE AGREEMENT & ORDINANCE (SECOND READING)

North Carolina General Statute § 153A-46 allows the Board of Commissioners to award a franchise by approving an ordinance twice. This is the second ordinance reading. The proposed franchise ordinance is to award a residential curbside solid waste franchise to Republic Services. The Solid Waste Franchise Agreement and Ordinance were first presented and read at the Commissioner's June 7, 2022 regular meeting.

ACTION: Commissioner Hardin made a motion, seconded by Commissioner Bridges, and unanimously approved by the Board to, *adopt the solid waste franchise agreement and ordinance.*

ORDINANCE NO. 2022-____ GRANTING AN EXCLUSIVE SOLID WASTE MANAGEMENT FRANCHISE TO REPUBLIC SERVICES OF NORTH CAROLINA, LLC FOR RESIDENTIAL CURBSIDE SOLID WASTE COLLECTION, TRANSPORT, AND DISPOSAL

BE IT ORDAINED by the Board of Commissioners of Cleveland County, in accordance with N.C.G.S. § 153A-46 and N.C.G.S. § 153A-136, Chapter 11 of the Cleveland County Code, and other applicable laws, that Republic Services of North Carolina, LLC ("Franchisee"), is hereby granted an exclusive franchise to operate within Cleveland County, strictly subject to the terms and conditions set forth herein:


- (1) This Franchise is subject to the Solid Waste Franchise Agreement, which is attached hereto as Exhibit A.
- (2) This Franchise shall be effective and is granted for a period of five years, beginning July 1, 2022 and expiring June 30, 2027, with an extension of up to one year possible through mutual consent, and with other terms and conditions as are contained in the attached Solid Waste Franchise Agreement.
- (3) This Franchise shall include residential curbside pickup of municipal solid waste only.
- (4) This Franchise applies to all unincorporated areas of Cleveland County, though municipalities may also choose to participate. Cleveland County reserves, notwithstanding any other provision in this ordinance or the attached agreement, the right to haul, collect, recycle, dispose, or transport any solid waste and operate manned and unmanned collection sites for solid waste within the entire County and within any area which is subject to the solid waste regulations of the County by North Carolina statutes or interlocal agreement.

The Board of Commissioners grants this franchise after being satisfied that (1) Franchisee will render prompt, efficient, and continuing service to the area for which the franchise is granted and (2) Franchisee has sufficient equipment and personnel to render such service to all within the franchised area.

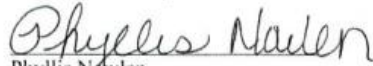
BE IT FURTHER PROVIDED that the Franchise shall become effective July 1, 2022, upon final adoption after two readings.

Adoption on the first reading on June 7, 2022.

Final Adoption on the second reading on June 21, 2022.


Kevin Gordon
Cleveland County Board of Commissioners

ATTEST:


Phyllis Nowlen
Cleveland County Clerk



RESIDENTIAL FRANCHISE COLLECTION AGREEMENT

This Municipal Materials Management Agreement (the “**Agreement**”) is made and entered into the 1st day of July, 2022 (“**Effective Date**”), by and between the Cleveland County, North Carolina (“**County**”), and Republic Services of North Carolina, LLC, a North Carolina limited liability company qualified to do and actually doing business in the State of North Carolina (“**Company**”).

RECITALS

WHEREAS, the County desires that Company provide Services as defined herein for the Location Types as set forth in this Agreement and Company desires to do so, all in accordance with the terms of this Agreement.

WHEREAS, pursuant to N.C.G.S. § 153A-136(3) and N.C.G.S. § 153A-46, the County may grant a franchise for the exclusive right to collect and dispose of residential municipal solid waste for a fee within the County;

WHEREAS, the County has a Solid Waste ordinance (the “Ordinance”), set forth in Chapter 11 of its Code of Ordinances, which provides that the Board of Commissioners may grant an exclusive franchise for the provision of solid waste collection, transportation, and disposal services;

WHEREAS, the Company has the equipment, staff, knowledge, and proven good customer service to provide the services contained herein, and

WHEREAS, at regularly scheduled public meetings, held June 7, 2022, and June 21, 2022, the Board of Commissioners passed an ordinance authorizing a Solid Waste Management Franchise Agreement with the Company (the “Franchise Ordinance”).

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained in this Agreement, the parties agree as follows:

TERMS AND CONDITIONS

1. **Sole and Exclusive Franchise.** Company is hereby granted the sole and exclusive franchise, license, and privilege to provide for the collection and disposal or recycling, if applicable, of all conforming Waste Material (as defined in Exhibit A) for the following types of locations (“**Location Types**”) within the territorial jurisdiction of the County (the “**Services**”):

Location Types

<u>XX</u> Residential Units	_____ Large Commercial Units
_____ Small Commercial Units	_____ Industrial Permanent Units
_____ Municipal Facilities	_____ Industrial Temporary Units

2. **Newly Developed Areas.** If the County develops new areas (of the same Location Types as designated above) within the County’s territorial jurisdiction during the Term of this Agreement, such areas shall automatically be subject to this Agreement. The County shall provide Company with written notification of such newly developed areas, and within thirty (30) days after receipt of such notification, Company shall provide the Services as set forth in this Agreement in such newly developed area(s). If the County annexes any new areas that it wishes for Company to provide the Services, the Parties shall negotiate a mutually acceptable amendment to this Agreement adding such annexed areas to the scope of the Services and setting forth the rates that will apply for the Services in such area(s).
3. **Scope of Services.** Company shall furnish all equipment, trucks, personnel, labor, and all other items necessary to perform the Services. The Services shall not include the collection, disposal, or recycling of any Excluded Waste or Waste Material located at any Location Type not designated above, or any Waste Material/Service Types not designated in any exhibit attached hereto.
4. **Out of Scope Services May Be Contracted for Directly with Customers.** Company may provide collection and disposal or recycling service within the territorial jurisdiction of the County for any Waste Material and/or Location Types that are outside the scope of this Agreement pursuant such terms and conditions as may be mutually agreed upon by Company and such Customers, subject to the County’s solid waste ordinance. Such services and agreements are outside the scope of this Agreement, and this Agreement does not require such Customers to use Company for such services, but they may do so at their discretion. The County agrees that Company may use any information received from the County in marketing all of its available services to the Customers located within the County, whether included in the scope of this Agreement or not.
5. **Exhibits.** All Exhibits attached this Agreement are an integral part of the Agreement and are incorporated herein.

Exhibit A Specifications for Municipal Solid Waste Services

Exhibit A-1 Municipal Solid Waste Pricing

6. Term. This Agreement begins on the Effective Date and expires five (5) years thereafter but can be extended for one (1) additional one-year period upon mutual agreement of the parties (the “**Term**”). Either party may terminate this Agreement on the third or fourth anniversary of its effective date by providing written notice of non-renewal at least sixty (60) days prior to said anniversary. This Agreement may also be terminated in accordance with any other terms of this Agreement, and it may also be terminated by the mutual consent of the parties at any time.
7. Rates for Services; Rate Adjustments; Additional Fees and Costs.
- 7.1 Rates for Services. The rates for all Services shall be as shown on Exhibits A-1, subject to the rate adjustments and additional fees and costs as set forth herein.
- 7.2 Annual Rate Adjustments. Company may, in its sole discretion, annually make the greater of the following two rate adjustments:
- (1) The percentage increase in the Consumer Price Index for all Urban Consumers (Water, Sewer, and Trash Collection Services) U.S. County average, as published by the United States Department of Labor, Bureau of Statistics (the “CPI”) for the prior calendar year;
- OR
- (2) Any percentage increase in the County’s adopted solid waste tipping fees that apply to municipal solid waste disposal. For tipping fees, Company may adjust its rates to off-set any increases in tipping fees at the County’s landfill enacted since March of 2022.
- Company may choose to forego an annual rate increase in any year of this Agreement. This Agreement is limited to only one (1) rate adjustment pursuant to this section 7.2 by Company during each year, running from July 1 to June 30, of this Agreement. Any adjustment requires written communication from Company to the County Manager for approval by July 1 of each year, said approval being only that the adjustment conforms with the terms of this Agreement.
- 7.3 Change in Law Adjustments. Company may petition the County for increased rates for Services as a result of increases in costs incurred by Company due to (a) any third party or municipal hauling company or disposal or recycling facility being used; (b) changes in local, state, federal, or international rules, ordinances, or regulations; (c) changes in taxes, fees, or other governmental charges (other than income or real property taxes); (d) uncontrollable prolonged operational changes (i.e., a major bridge closure); (e) increased fuel costs; and (f) changes in costs due to a Force Majeure Event. Any of the foregoing cost adjustments may be retroactive to the effective date of such increase or change in cost.
8. Invoicing; Payment; Service Suspension; Audits.
- 8.1 Invoicing the Customer Directly. Company shall invoice each individual Customer for all Services rendered to such Customer under this Agreement within thirty (30) days following the end of the month, and the Customer shall pay Company’s invoices.
- 8.2 Payment. Customer shall pay each of Company’s invoices without offset within twenty (20) days of receipt of Company’s invoice. Payments may be made by check or ACH only; no purchasing cards or credit cards will be accepted. Payments not made on or before their due date may be subject to late fees of one and one-half percent (1.5%) per month (or the maximum allowed by law, if less). If the Customer withholds payment of a portion or entire invoice and it is later determined that a portion or all of such withheld amount is owed to Company, such amount shall be subject to the late fees provided herein from the original due date until paid.
- 8.3 Service Suspension.
- 8.3.1 Unpaid Invoices. If any amount due to Company from an individual Customer is not paid within sixty (60) days after the date of Company’s invoice, Company may suspend that Customer’s Services until the Customer has paid its outstanding balance in full. If Company suspends Service, the Customer shall pay a service interruption fee in an amount determined by Company in its discretion up to the maximum amount allowed by Applicable Law.
- 8.3.2 Suspension at Direction of County. If the County wishes to suspend or discontinue Services to a Customer for any reason, the County shall send Company a written notice (email is acceptable as long as its receipt is acknowledged by Company) identifying the Customer’s address and the date the Services should be suspended or discontinued. In the event of Service suspension, the County shall provide additional email notification to Company if/when it wishes to reactivate the suspended Services. Upon receipt of a notice of reactivation, Company shall resume the Services on the next regularly scheduled collection day. The County shall indemnify, defend, and hold Company harmless from any claims, suits, damages, liabilities, or expenses (including but not limited to expenses of investigation and attorneys’ fees) resulting from the suspension or discontinuation of any Services at the direction of the County.
- 8.4 Audits.
- 8.4.1 Audit of Company Records. The County may request and be provided with an opportunity to audit any relevant and non-confidential records of Company that support the calculations of charges invoiced customers under this Agreement within the ninety (90) day period before the audit request. Such audits shall be paid for by the County and shall be conducted under mutually acceptable terms at Company’s premises in a manner that minimizes any interruption in the daily activities at such premises.
- 8.4.2 Annual Meetings. The County and Company will meet annually beginning in March of 2023 to review the Contract performance, which includes number of subscribers, rates, and scope of work. At the mutual agreement of the parties, the disposal facility may be updated to the Cleveland County Landfill located at 1609 Airport Road, Shelby, North Carolina, 28150.
9. Termination. If either party breaches any material provision of this Agreement and such breach is not substantially cured within thirty (30) days after receipt of written notice from the non-breaching party specifying such breach in reasonable detail, the non-breaching party may terminate this Agreement by giving thirty (30) days’ written notice of termination to the breaching party. However, if the breach cannot be substantially cured within thirty (30) days, the Agreement may not be terminated if a cure is commenced within the cure period and for as long thereafter as a cure is diligently pursued. Upon termination, the customers shall pay Company only such charges and fees for the Services performed on or before the termination effective date and Company shall collect its equipment, and Company shall have no further obligation to perform any Services under this Agreement.
10. Compliance with Laws. Company warrants that the Services will be performed in a good, safe, and workmanlike manner, and in compliance with all applicable federal, state, provincial and local laws, rules, regulations, and permit conditions relating to the Services, including without limitation any applicable requirements relating to protection of human health, safety, or the environment (“**Applicable Law**”). In

the event any provision of this Agreement conflicts with an existing ordinance of the County, this Agreement shall control, and Company shall not be fined, punished, or otherwise sanctioned under such ordinance. Company reserves the right to decline to perform Services, which, in its judgment, it cannot perform in a lawful manner or without risk of harm to human health, safety, or the environment.

11. **Title.** Title to Waste Material shall pass to Company when loaded into Company's collection vehicle or otherwise received by Company. Title to and liability for any Excluded Waste shall at no time pass to Company.
12. **Excluded Waste.** If Excluded Waste is discovered before it is collected by Company, Company may refuse to collect the entire waste container that contains the Excluded Waste. In such situations, Company shall contact the County, and the County shall promptly undertake appropriate action to ensure that such Excluded Waste is removed and properly disposed of by the depositor or generator of the Excluded Waste. In the event Excluded Waste is present but not discovered until after it has been collected by Company, Company may, in its sole discretion, remove, transport, and dispose of such Excluded Waste at a facility authorized to accept such Excluded Waste in accordance with Applicable Law and, in Company's sole discretion, charge the County, depositor, or generator of such Excluded Waste for all direct and indirect costs incurred due to the removal, remediation, handling, transportation, delivery, and disposal of such Excluded Waste. The County shall provide all reasonable assistance to Company to conduct an investigation to determine the identity of the depositor or generator of the Excluded Waste and to collect the costs incurred by Company in connection with such Excluded Waste. Subject to the County's providing all such reasonable assistance to Company, Company shall release County from any liability for any such costs incurred by Company in connection with such Excluded Waste, except to the extent that such Excluded Waste is determined to be attributed to the County.
13. **Equipment; Access.** Any equipment that Company furnishes or uses to perform the Services under this Agreement shall remain Company's property. County and Customers shall use the equipment only for its proper and intended purpose and shall not overload (by weight or volume), move, or alter the equipment. If the equipment and/or Waste Material is not accessible so that the regularly scheduled pick-up cannot be made, such Waste Material will not be collected until the next regularly scheduled pick-up, unless the Customer calls Company and requests an extra pick-up, in which case an extra service charge will apply. Company shall not be responsible for any damages to any property or equipment located adjacent to the collection receptacles, nor to any pavement, curbing, or other driving surfaces resulting from Company's providing the Services under this Agreement.
14. **Risk Allocation.** Except as otherwise specifically set forth herein, each party shall be responsible for any and all claims for personal injuries or death, or the loss of or damage to property, only to the extent caused by that party's negligence or acts of willful misconduct or those of its employees, contractors, subcontractors, or agents, and only if the party may otherwise be held liable for its negligence or acts of willful misconduct or those of its employees, contractors, subcontractors, or agents. However, the County, to the fullest extent permitted by law, shall retain and explicitly does not waive its governmental immunity except for the limited waiver necessary to enter into this Agreement with Company, and this section shall not constitute a waiver of the County's governmental immunity as to any claim by any third party.
15. **Insurance.** During the Term of this Agreement, Company shall maintain in force, at its expense, insurance coverage with minimum limits as follows:

Workers' Compensation

Coverage A	Statutory
Coverage B - Employers Liability	\$1,000,000 each Bodily Injury by Accident \$1,000,000 policy limit Bodily Injury by Disease \$1,000,000 each occurrence Bodily Injury by Disease

Automobile Liability

Bodily Injury/Property Damage Combined – Single Limit	\$3,000,000 Coverage is to apply to all owned, non-owned, hired and leased vehicles (including trailers).
Pollution Liability Endorsement	MCS-90 endorsement for pollution liability coverage

Commercial General Liability

Bodily Injury/Property Damage Combined – Single Limit	\$2,500,000 each occurrence \$5,000,000 general aggregate
--	--

All such insurance policies will be primary without the right of contribution from any other insurance coverage maintained by County. All policies required herein shall be written by insurance carriers with a rating of A.M. Bests of at least "A-" and a financial size category of at least VII. Upon County's request, Company shall furnish County with a certificate of insurance evidencing that such coverage is in effect. Such certificate will also provide for thirty (30) days prior written notice of cancellation to the County, show the County as an additional insured under the Automobile and General Liability policies, and contain waivers of subrogation in favor of the County (excluding Worker's Compensation policy) except with respect to the sole negligence or willful misconduct of County. However, the County, to the fullest extent permitted by law, shall retain and explicitly does not waive its governmental immunity except for the limited waiver necessary to enter into this Agreement with Company.

16. **Force Majeure.** Any failure or delay in performance under this Agreement due to contingencies beyond a party's reasonable control, including, but not limited to, strikes, riots, terrorist acts, epidemics, or pandemics, compliance with Applicable Laws or governmental orders, fires, bad weather and acts of God, shall not constitute a breach of this Agreement, but shall entitle the affected party to be relieved of performance at the current pricing levels under this Agreement during the term of such event and for a reasonable time thereafter. The collection or disposal of any increased volume resulting from a flood, hurricane or similar or different Act of God over which Company has no control, shall not be included as part of Company's service under this Agreement. In the event of increased volume due to a Force Majeure event, Company and the County shall negotiate the additional payment to be made to Company. Further, the County shall grant Company variances in routes and schedules as deemed necessary by Company to accommodate collection of the increased volume of Waste Materials.
17. **Non-Discrimination.** Company shall not discriminate against any person because of race, sex, age, creed, color, religion, or national origin in its performance of Services under this Agreement.
18. **Licenses and Taxes.** Company shall obtain all licenses and permits (other than the franchise granted by this Agreement) and promptly pay all taxes required by the County and by the State.
19. **No Guarantees or Liquidated Damages.** Unless specifically provided herein, Company provides no guarantees or warranties with respect to the Services. No liquidated damages or penalties may be assessed against Company by County.
20. **Municipalities.** Municipalities within the County, under N.C.G.S. § 153A-122, may elect to adopt the County's Solid Waste Ordinance as it applies to any or all solid waste not collected by the municipality. Due to the customer density in unincorporated areas of the County, any municipality adopting the County ordinance may negotiate a fee schedule with Company that differs from the fees established by the County.

21. Public Records. The County is required to comply with certain applicable statutes of the State of North Carolina regarding open meetings and public records. Notwithstanding anything to the contrary within this Agreement, the County shall not be liable to any party for disclosing the Agreement, or any documents or communications made or received in relation thereto, to any third party or the public at large, if such disclosure is made by the County in a good faith effort, within its sole discretion, to comply with any public records request.
22. Notices. Any notices given pursuant to this Agreement, such as a notice of termination, shall be delivered to each party at these addresses:
- Notices shall be given to Company at: _____ Notices shall be given to the County at:
- Attn: Cleveland County Attorney
P.O. Box 1210
Shelby, NC 28151
23. E-Verify Certification. At all times during the performance of this Agreement, all parties shall fully comply with Article 2 of Chapter 64 of the North Carolina General Statutes and shall ensure compliance by any subcontractors utilized.
24. Minimum House Count. Company shall only be obligated to provide Services under this Agreement so long as at least two thousand five hundred (2500) households in Cleveland County contract with Company for residential curbside solid waste disposal and processing services. If Company ceases providing Services pursuant to this Section 24, this Agreement shall terminate immediately, and the County shall be free to grant a franchise to another party to perform the Services.
25. Miscellaneous. (a) This Agreement represents the entire agreement between the Parties and supersedes all prior agreements and franchises, whether written or verbal, that may exist for the same Services. (b) Company shall have no confidentiality obligation with respect to any Waste Materials. (c) Neither party shall assign this Agreement in its entirety without the other party's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Company may assign this Agreement without the County's consent to its parent company or any of its subsidiaries, to any person or entity that purchases any operations from Company, or as a collateral assignment to any lender to Company. This Agreement shall be binding upon and inure solely to the benefit of the Parties and their permitted successors and assigns. (d) Company may provide any of the Services covered by this Agreement through any of its affiliates or subcontractors, provided that Company shall remain responsible for the performance of all such services and obligations in accordance with this Agreement. (e) No intellectual property rights in any of Company's IP are granted to County under this Agreement. (f) All provisions of the Agreement shall be strictly complied with and conformed to by the Parties, and this Agreement shall not be modified or amended except by written agreement duly executed by the undersigned parties. (g) If any provision of this Agreement is declared invalid or unenforceable, it shall be modified so as to be valid and enforceable but so as most nearly to retain the intent of the Parties. If such modification is not possible, such provision shall be severed from this Agreement. In either case, the validity and enforceability of the remaining provisions of this Agreement shall not in any way be affected thereby. (h) Failure or delay by either party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision. (i) If any litigation is commenced under this Agreement, the successful party shall be entitled to recover, in addition to such other relief as the court may award, its reasonable attorneys' fees, expert witness fees, litigation related expenses, and court or other costs incurred in such litigation or proceeding. (j) This Agreement shall be interpreted and governed by the laws of the State where the Services are performed, and the sole venue for enforcement of this Agreement shall be the North Carolina General Court of Justice sitting in Cleveland County. (k) Customer and Company agree that electronic signatures are valid and effective, and that an electronically stored copy of this Agreement constitutes proof of the signature and contents of this Agreement, as though it were an original.

IN WITNESS HEREOF, the parties have entered into this Agreement as of the date first written above.

Cleveland County, North Carolina

Republic Services of North Carolina, LLC

By: 

By: 

Name: Kevin Gordon

Name: Shane Walker

Title: Chairman, Board of Commissioners

Title: Area President

Date: 06/23/2022

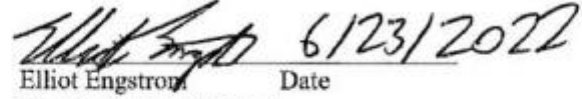
Date: 6/29/2022

Attest: 

Phyllis Nowlen

Date: 06/23/2022

Clerk to the Board of Commissioners

Approved as to form: 

Elliot Engstrom

Date: 6/23/2022

Deputy County Attorney

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.



Lucas Jackson
Finance Director

EXHIBIT A

SPECIFICATIONS FOR MUNICIPAL SOLID WASTE SERVICES

1. Waste Material. The following Waste Material shall be considered in scope during the Term of this Agreement:

XX Municipal Solid Waste (MSW) _____ Bulky Waste

2. Definitions.

2.1 Bundle – Tree, shrub and brush trimmings or newspapers and magazines securely tied together forming an easily handled package not exceeding four (4) feet in length or thirty-five (35) lbs.

2.2 Customer – An occupant or operator of any type of premise within the County that is covered by this Agreement and who generates Municipal Solid Waste and/or Recyclable Material, if applicable.

2.3 Disposal Site – A Waste Material depository including, but not limited to, sanitary landfills, transfer stations, incinerators, recycling facilities and waste processing/separation centers licensed, permitted or approved by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approvals to receive for processing or final disposal of Waste Material.

2.4 Excluded Waste – Excluded Waste consists of Special Waste, Hazardous Waste, and any other material not expressly included within the scope of this Agreement including, but not limited to, any material that is hazardous, radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or listed or characteristic hazardous waste as defined by Applicable Law or any otherwise regulated waste.

2.5 Hazardous Waste – Any amount of waste listed or characterized as hazardous by the United States Environmental Protection Agency or any state agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, and including future amendments thereto, and any other Applicable Law.

2.6 Industrial Permanent Unit – An industrial premise requiring use of a large container for the collection of its MSW for a continuous term.

2.7 Industrial Temporary Unit – An industrial premise requiring use of a large container for the collection of its Solid Waste on only a temporary basis. Solid Waste collection is generally limited to a specific event or a short-term project.

2.8 Municipal Facilities – Those specific municipal premises as set forth on Exhibit A-1 of this Agreement, if any.

2.9 Municipal Solid Waste (or “MSW”) – Useless, unwanted or discarded nonhazardous materials (trash or garbage) with insufficient liquid content to be free-flowing that result from residential, commercial, governmental and community operations. Municipal Solid Waste does not include any Excluded Waste.

2.10 Residential Unit – A dwelling where a person or group of people live. For purposes of this Agreement, each unit in a multi-family dwelling (condominium, apartment or other grouped housing structure) shall be treated as a separate Residential Unit and a Residential Unit shall be deemed occupied when either water or power services are being supplied thereto.

2.11 Special Waste – Any nonhazardous solid waste which, because of its physical characteristics, chemical make-up, or biological nature requires either special handling, disposal procedures including liquids for solidification at the landfill, documentation, and/or regulatory authorization, or poses an unusual threat to human health, equipment, property, or the environment. Special Waste includes, but is not limited to (a) waste generated by an industrial process or a pollution control process; (b) waste which may contain residue and debris from the cleanup of spilled petroleum, chemical or commercial products or wastes, or contaminated residuals; (c) waste which is nonhazardous as a result of proper treatment pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (“RCRA”); (d) waste from the cleanup of a facility which generates, stores, treats, recycles or disposes of chemical substances, commercial products or wastes; (e) waste which may contain free liquids and requires liquid waste solidification; (f) containers that once contained hazardous substances, chemicals, or insecticides so long as such containers are “empty” as defined by RCRA; (g) asbestos containing or asbestos bearing material that has been properly secured under existing Applicable Law; (h) waste containing regulated polychlorinated biphenyls (PCBs) as defined in the Toxic Substances Control Act (TSCA); (i) waste containing naturally occurring radioactive material (NORM) and/or technologically-enhanced NORM (TENORM); and (j) Municipal Solid Waste that may have come into contact with any of the foregoing.

2.12 Waste Material – All nonhazardous Municipal Solid Waste and, as applicable, Recyclable Material, Yard Waste, Bulky Waste and Construction Debris generated at the Location Types covered by this Agreement. Waste Material does not include any Excluded Waste.

3. Collection Operations.

3.1 Location of Containers. Company will supply one (1) 96-gallon containers to each Customer. Each Company provided container of Waste Material shall be placed at curbside for collection. Curbside refers to that portion of right-of-way adjacent to paved or traveled County roadways. These Containers shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, the Company provided containers shall be placed as close as practicable to an access point for the collection vehicle. Company may decline to collect any container not provided by Company, not so placed or any Waste Material not in a Company provided container.

3.2 Unsafe Stops. If Company determines any stops to be unsafe, at their sole discretion, County and Company agree to meet in good faith to determine if Services at these stops can be discontinued or not started as applicable. Services at these unsafe stops can be discontinued or not started at the mutual agreement of the parties.

3.3 Hours of Collection Operations. Collection of Waste Material shall not start before 5:00 A.M. or continue after 8:00 P.M. Exceptions to collection hours shall be affected only upon the mutual agreement of the County and Company, or when Company reasonably determines that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.

3.4 Routes of Collection. Collection routes shall be established by the Company. Company shall submit the Residential Unit and Municipal Facility collection routes to the County at least two (2) weeks in advance of the commencement date for such route collection activity. The Company may from time to time make changes in routes or days of collection affecting Residential Units or Municipal Facilities, provided such changes in routes or days of collection are submitted to the County at least two (2) weeks in advance of the commencement date for such changes. County shall promptly give written or published notice to the affected Residential Units.

3.5 Residential Collection. Company shall be obligated to collect no more than one (1) containers (or their equivalent) per week from each Residential Unit. Any collections needed by a Residential Unit in excess of such amount must be individually contracted by the Residential Unit Customer with Company under terms, prices and documents acceptable to both the Residential Unit Customer and Company or is subject to unscheduled pick-up fees as set forth in Exhibit A-1.

3.6 Holidays. The following shall be holidays for purposes of this Agreement: New Year’s Day, President’s Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. Company may suspend collection service on any of these holidays, but such decision in no manner relieves Company of its obligation to provide collection service at least once per week.

3.7 Complaints. All service-related complaints must be made directly to the Company and shall be given prompt and courteous attention. In the case of alleged missed scheduled collections, the Company shall investigate and, if such allegations are verified, shall arrange for the collection of Waste Material not collected within one business day after the complaint is received.

3.8 Collection Equipment. The Company shall provide an adequate number of vehicles meeting standards and inspection requirements as set forth by the laws of the State for regular municipal waste collection services. For Waste Material collection, all vehicles and other equipment shall be kept in good repair and appearance at all times. Each vehicle shall have clearly visible on each side the identity of the Company.

3.9 Disposal. All Waste Material collected within the County under this Agreement shall be deposited at the Cleveland County Landfill. Pursuant to Section 7.2 of this Agreement, Company may adjust its rates to off-set any increases in tipping fees at the County's landfill since March of 2022.

3.10 Customer Education. The County shall notify all Customers at Residential Units about set-up, service-related inquiries, complaint procedures, rates, regulations, and day(s) for scheduled Waste Material collections.

3.11 Litter or Spillage. The Company shall not litter premises in the process of making collections, but Company shall not be required to collect any Waste Material that has not been placed in approved containers. During hauling, all Waste Material shall be contained, tied or enclosed so that leaking, spillage or blowing is minimized. In the event of spillage by the Company, the Company shall be required to clean up the litter caused by the spillage.

EXHIBIT A-1

Cleveland County Residential Franchise 2022-2023 Rates for Services

Solid Waste Rate	\$25.00
per month billed quarterly	

Service Fees	Cost
Delivery	\$25.00
Removal	\$25.00
Extra/Unscheduled Pick-Up	\$20.00
Extra Bags/Overloaded Cart	\$15.00
Service Interrupt	\$25.00

Additional Items Included in Agreement:

- * **Full payment of past due balance prior to reinstatement of service (see Section 8.3.1)**
- * **Ability to not service unsafe stops (see Exhibit A Section 3.2)**
- * **Minimum contracted house count of 2500 (see Section 24)**

ORDINANCE NO. 2022- AMENDING CHAPTER 11 OF THE CLEVELAND COUNTY CODE OF ORDINANCES

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF CLEVELAND IN REGULAR SESSION ASSEMBLED:

The following changes are hereby made to Chapter 11 of the Cleveland County Code of Ordinances (the "Code"). These changes are effective on the date that this ordinance is approved by the Cleveland County Board of Commissioners.

1 **Section 1. Division of 1 of Chapter 11 Article II of the Cleveland County Code of Ordinances**
 2 **is amended as follows. Additions are underlined in blue, deletions are struck through in red.**

3 **Sec. 11-27. Purpose of article.**

4 The purpose of this article is to regulate the storage, collection, and disposal of all forms of
 5 solid waste in the county.
 6

7 **Sec. 11-28. Definitions.**

8 The following words, terms, and phrases, when used in this article, shall have the meanings
 9 ascribed to them in this section, except where the context clearly indicates a different meaning.
 10 Any term not specifically defined in this section shall be defined as set forth in the state solid waste
 11 management rules, ~~10 N.C.A.C. 10 G.15 N.C.A.C. 13B § 0101, section 0100,~~ as amended from time
 12 to time.
 13

14 ...

15 *County manager* means the chief administrator of county government as defined in N.C.G.S.
 16 § 153A-82.
 17

18 ...

19 *Division of health services* means the division of health services of the ~~state department of~~
 20 ~~human resources~~ North Carolina Department of Health and Human Services.
 21

22 ...

23 *Franchise* means a franchise for the exclusive right to commercially collect solid waste as
 24 described in N.C.G.S. § 153A-136(a)(3).
 25

26 ...

27 *License* means a license to commercially collect or dispose of solid waste as described in
 28 N.C.G.S. § 153A-136(2).
 29

30 ...

1 *Residential curbside solid waste* means useless, unwanted, or discarded nonhazardous
 2 materials (refuse or garbage) with insufficient liquid content to be free-flowing that come from a
 3 dwelling where a person or group of people live, and which is capable of being collected on a
 4 weekly basis by a franchised solid waste collector.
 5

6 ...

7 *Solid Waste Director* means the county's solid waste director, who is appointed by the County
 8 Manager. If at any time the county does not have a Solid Waste Director, any duties or rights
 9 assigned to the Solid Waste Director shall be exercised by the County Manager or his designee.
 10

11 ...

12 *Yard waste* means grass, leaves, flowers, stalks, stems, tree trimmings, branches, and tree
 13 trunks.
 14

15 **Sec. 11-31. Adoption of state waste management rules.**

16 In addition to the terms and provisions of this article, the state solid waste management rules
 17 as set forth in chapter 130 of the state administrative code, subchapter 13B06, as amended from
 18 time to time, are hereby incorporated into and made a part of this article by reference. A violation
 19 of the state solid waste management rules shall also be a violation of this article.
 20

21 **Sec. 11-32. Administration and enforcement of article.**

22 The ~~county manager of the county or authorized representative~~ Solid Waste Director shall
 23 administer and enforce the provisions of this article.
 24

25 **Sec. 11-33. Authority to establish fees.**

26 The board of commissioners may establish a fee schedule for the storage, collection, and
 27 disposal of solid waste.
 28

29 **Sec. 11-34. Storage and disposal generally.**

30 ...

31 (3) Time limits.

32 a. It shall be unlawful for any person occupying any dwelling or dwelling unit to place
 33 or leave outside of any building longer than thirty (30) days any dilapidated
 34 furniture, icebox, refrigerator, stove or other appliance, machinery, equipment,
 35 building material or other item which is either in a wholly or partially rusted,
 36 wrecked, junked, dismantled or inoperative condition which, in the opinion of the
 37 ~~county manager~~ Solid Waste Director, constitutes a potential public health hazard.
 38 In determining whether such a potential public health hazard exists, the ~~county~~
 39 ~~manager~~ Solid Waste Director shall consult with, and be advised by, the health
 40 director. This subsection shall not apply to a licensed junk dealer.
 41
 42
 43
 44
 45
 46

- 1 b. It shall be unlawful for any person to store garbage of a perishable or offensive
2 nature for more than one week in any type of container.
3 c. If a potential public health hazard exists, the ~~county manager~~ Solid Waste Director
4 shall give the occupant or owner written notice that, unless the potential hazard is
5 removed within the time limit prescribed in the particular paragraph above (thirty
6 (30) days or one week), then prosecution under this article will be instituted.
7
8
9

- 10 (6) Where there is more than one premises located in a residential building or mobile home
11 park, it shall be the responsibility of the owner or person in charge of each building or
12 mobile home park to see that the residents of said building or mobile home park dispose
13 of their solid waste in one of the following lawful manners: 1) pay the annual solid waste
14 user fee as established by section 11-877 hereof for each residential unit or mobile home;
15 2) contract with a licensed ~~permitted~~ franchised solid waste collector; or 3) the owner or
16 person in charge of the building or mobile home park may collect and transport solid
17 waste to the county sanitary landfill after meeting the requirements of ~~section 11-34(b)~~
18 ~~and the following requirements: Division 2 of this Article that apply to licensees who~~
19 ~~charge fees for the transport of solid waste.~~
20 ~~a. Apply for and be approved by the county for the establishment of an account for~~
21 ~~the purposes of billing and collection of appropriate solid waste disposal fees and~~
22 ~~display the county identification numbers as required in section 11-71(b).~~
23 ~~b. Vehicles or containers used for the collection or transportation of solid waste shall~~
24 ~~be cleaned as often as necessary to prevent a nuisance or insect breeding and shall~~
25 ~~be maintained in good repair.~~
26
27
28

29 **Sec. 11-36. Disposal of dead animals.**
30 ~~In order to~~ To provide for the safe disposal of the bodies of dead animals, one of the following
31 procedures shall be followed by animal owners in the county for disposal of dead animals:
32
33
34

35 **Sec. 11-39. Same—Use of landfill.**
36 (a) The county sanitary landfill may be used for the disposal of solid waste by county residents
37 or nonresident property owners. The landfill shall be open during business hours as
38 established by the ~~county manager~~ Solid Waste Director. In emergency situations, the
39 landfill shall be opened for additional hours as may be directed by the ~~county manager~~ Solid
40 Waste Director or authorized representative. Except when . . .
41
42
43

- 1 (4) A statement that the licensee shall carry all necessary insurance, including but not
2 limited to commercial automobile, general liability, and workers compensation
3 insurance.
4 (5) A statement that the licensee shall have drivers licensed under North Carolina law
5 operating all vehicles being drive by the licensee of its staff
6 (6) A statement that the licensee shall obey the speed limit inside of the Cleveland
7 County landfill.
8 (7) A statement that failure to comply with the terms of the Solid Waste Collector
9 Agreement may result in revocation of dumping privileges at the Cleveland County
10 Landfill.
11
12 (b) Additional Licensing Requirements
13 (1) The Solid Waste Director or his designee may inspect equipment used by a licensee
14 for the permitted activities.
15 (2) Vehicles and containers used for the collection and transportation of solid waste
16 shall be covered, leak proof, durable, and easily cleaned.
17 (3) Vehicles shall display plainly the company/owner's name and address or phone
18 number.
19 (4) Vehicles and containers used for the collection and transportation of solid waste
20 shall be loaded and moved in such a manner that the contents will not fall, leak,
21 spill, or scatter. Such vehicles and containers shall be covered to prevent the
22 blowing of material. If spillage or scattering of materials occurs, the materials shall
23 be recovered by the licensee and returned to the vehicle or container and the area
24 properly cleaned.
25 (5) Licensees may not dispose of waste from outside of Cleveland County in the
26 Cleveland County Landfill.
27 (6) Licensees are subject to all applicable terms of this Chapter.
28 (7) The licensee shall serve every person who contracts with it for solid waste
29 collection in such a manner than the licensee does not cause the person to be in
30 violation of this Article. The licensee shall not discriminate against any person for
31 contract purposes in violation of the Civil Rights Act, as amended, on the basis of
32 race, color, creed, religion, national origin, physical impairment, sex, or any other
33 protected class.
34 (8) Failure to comply with any of the terms in this section, or any of the terms in the
35 Solid Waste Collector Agreement, or any applicable law or regulation, may result
36 in revocation or suspension of a license.
37

38 **Sec. 11-63. Term; renewal.**
39 Licenses for the collection, transportation, and proper disposal of solid waste under this
40 Division shall be issued for a one-year period and may be renewable for similar periods. Unless
41 otherwise indicated, licenses shall be presumed to be automatically renewable for one-year periods
42 on the anniversary of their issuance.
43

1 **Sec. 11-41. Operation of landfills.**
2 Any landfill located in the county shall be operated according to rules and regulations
3 providing standards for solid waste disposal adopted by the state commission for health services,
4 bulletin no. 411, as amended or superseded. The operational requirements for a . . .
5

6 **Sec. 11-42. Demolition pits.**
7 Anyone wishing to operate a demolition pit shall make a written request to the ~~county~~
8 ~~manager~~ Solid Waste Director, listing the name of the persons . . .
9

10 **Sec. 11-43. Closing of illegal dumps.**
11 Any person having an illegal solid waste dump shall, upon notification by the ~~county~~
12 ~~manager~~ Solid Waste Director, take the following actions:
13 (1) Implement effective rat control measures for at least two (2) weeks after closing the
14 dump to prevent rat migration to adjacent properties, if determined necessary by the
15 ~~county manager~~ Solid Waste Director.
16
17
18

19 **Section 2. Division 2 of Chapter 11 Article II of the Code is repealed in its entirety and**
20 **replaced with the following:**
21

22 **DIVISION 2. LICENSE FOR COLLECTION, TRANSPORTATION, OR DISPOSAL**
23

24 **Sec. 11-61. Required.**
25 Under the provisions of this Division, the Solid Waste Director shall have authority to grant
26 non-exclusive licenses for the collection, transportation, and proper disposal of solid waste from
27 commercial, industrial, and business establishments throughout the county for a fee and to grant
28 non-exclusive licenses for the collection, transportation, and proper disposal of bulky waste, yard
29 waste, and/or any other waste that is not subject to a franchise granted under Division 3 of this
30 Article from any establishments throughout the county for a fee. No person shall collect, transport,
31 or dispose of such solid waste for a fee, hire, or consideration without a license issued by the Solid
32 Waste Director under this Division. This license shall take the form of a Solid Waste Collector
33 Agreement promulgated by the Solid Waste Director. The Solid Waste Collector Agreement shall
34 contain the terms listed in Section 11-62 below, as well as any terms the Solid Waste Director
35 deems necessary to ensure that the licensee can safely collect and transport solid waste.
36

37 **Sec. 11-62. Approval of applicant's facilities, equipment, and operating methods.**
38 (a) The Solid Waste Collector Agreement shall include at least the following terms:
39 (1) Name and address of the licensee.
40 (2) A statement that the licensee shall only deliver solid waste produced in Cleveland
41 County for disposal at the Cleveland County Landfill.
42 (3) A statement that the licensee shall have all necessary tarping, covers, and/or diapers
43 to prevent roadside litter.

1 **Sec. 11-64. Revocation.**
2 Any license to collect or transport solid waste may be revoked by the Solid Waste Director
3 for violation of applicable state and local laws, including this ordinance and the Solid Waste
4 Collector Agreement, pertaining to the management of solid waste.
5

6 (c) Whenever, upon the inspection of the facilities, equipment, or operating methods of any
7 person holding a license to collect, transport, and dispose of solid waste, the Solid Waste
8 Director finds that the conditions or practices of such licensee are in violation of applicable
9 state and/or local regulations or the Solid Waste Collector Agreement, the Solid Waste
10 Director shall give notice, by registered or certified letter addressed to such person, that
11 unless such conditions or practices are corrected within ten (10) days of receipt of said
12 letter, the license will be revoked. At the expiration of the ten-day period, the Solid Waste
13 Director shall perform a re-inspection, and if he finds that such conditions or practices have
14 not been corrected, he shall give notice in writing to the license holder that the license has
15 been revoked. Upon receipt of such notice or refusal of acceptance, no person whose
16 license has been revoked shall thereafter collect or transport solid waste unless and until
17 his license has been reinstated. No such license shall be reinstated by the Solid Waste
18 Director until he finds, upon inspection, that the conditions causing the violation have been
19 corrected.
20

21 **Sec. 11-65. Application for account.**
22 All municipalities, businesses, contract haulers, and licensed/franchised haulers, before depositing
23 any waste in the County sanitary landfill, must first apply for and be approved for the establishment
24 of an account for billing and collection of appropriate solid waste disposal fees and display their
25 county-issued identification numbers.
26

27 **Sec. 11-66. Sales, transfer of license; changes in ownership of business.**
28 No license granted under the provisions of this Division shall be sold, assigned, pledged, or
29 transferred, nor shall control thereof by stock transfer or otherwise or any rights thereunder leased,
30 nor shall any merger or combination affecting the license be made through acquisition or control
31 by stock purchase or otherwise, except after application to and written approval by the Solid Waste
32 Director.
33

34 **Secs. 11-67—11-70. Reserved.**
35
36

37 **Section 3. A new Division 3 of Chapter 11 Article II is hereby added to the Code, which shall**
38 **read as follows:**
39

40 **DIVISION 3. FRANCHISE FOR COLLECTION, TRANSPORTATION, AND DISPOSAL**
41 **OF CURBSIDE RESIDENTIAL SOLID WASTE**
42
43

44 **Sec. 11-71. Required.**
45 No person shall, for a fee, hire, or consideration, collect or transport residential curbside solid
46 waste unless such person holds a valid, current franchise issued by the board of county

1 commissioners authorizing the person to collect and transport residential curbside solid waste and
2 describing the territory or area for which the franchise is issued. Except as otherwise provided
3 herein, the board of commissioners may set the terms of any franchise.
4

5 **Sec. 11-72. Filing and contents of application.**
6 Applications for franchises under this article shall be filed with the county, through the Solid
7 Waste Director or his designee, setting forth the following information and such other information
8 as the Solid Waste Director may request in order that the county may properly consider the
9 application:
10 (1) Full name and address of the applicant and whether a proprietorship, corporation, or
11 partnership, with disclosure of ownership interests.
12 (2) The type of franchise (collection, transportation, and/or disposal of solid waste) and
13 proposed area for which the franchise is requested (with a list of residents or customers
14 presently served therein, if any).
15 (3) Experience, if any, which the applicant has in rendering the services for which the
16 franchise is requested.
17 (4) Any other information the Solid Waste Director or his designee deems appropriate.
18

19 **Sec. 11-73. Findings prerequisite to grant.**
20 Franchises required by this article shall be granted only upon the board being satisfied that
21 the applicant will render prompt, efficient, and continuing service to the area for which the
22 franchise is granted, and that the applicant has sufficient equipment and personnel to render such
23 service to all within the franchised area.
24

25 **Sec. 11-74. Determination of area to be served.**
26 The county shall determine the area for which a franchise is granted under this article, and its
27 decision shall be final.
28

29 **Sec. 11-75. Fees charged by applicant to be fixed by Board of Commissioners.**
30
31 The board of county commissioners shall set and approve all fees charged for the collection
32 and transportation of solid waste under any franchise.
33

34 **Sec. 11-76. Reserved.**
35

36 **Sec. 11-77. May be exclusive; term.**
37 (a) The board of county commissioners may grant exclusive franchises to collect, transport, and
38 properly dispose of residential curbside solid waste within a specified area and may specify
39 the period for which the franchise is effective.
40
41 (b) It shall be unlawful for unauthorized persons to collect, transport, or dispose of residential
42 curbside solid waste that is subject to an exclusive franchise for a fee.
43

44 **Sec. 11-78. Holder to comply with chapter and applicable state and local regulations.**
45

1 (2) Noncompliance with the franchise, collection, transportation, and disposal fee schedules
2 authorized by the board of county commissioners;
3 (3) The attempted transfer of the franchise without prior approval of the board of
4 commissioners;
5 (4) Failure to render prompt and effective service to persons within the area in which the
6 franchise holder has a franchise to operate; or
7 (5) Failure to comply with any provisions of this chapter or applicable state and local
8 regulations.
9

10 (b) Complaints or grievances may be brought to the attention of the County by submission in
11 writing to the Solid Waste Director.
12

13 **Sec. 11-86. Records to be kept.**
14 (a) A record of all franchises granted under this article, defining the areas by geographical
15 features identifiable on the ground or other appropriate description and enumerating the
16 holders of each franchise, shall be maintained by the county.
17
18 (b) A copy of all authorized fee schedules and franchises granted under this article shall be
19 maintained by the county.
20

21 **Sec. 11-87. Declaration of hauler.**
22 Every property owner with a residential dwelling located on his property, where the property is
23 located outside a municipality with a municipal collection system, must declare with a franchised
24 solid waste collector between November 1 and December 31 of each year, whether the property
25 will be serviced by a franchised solid waste collector or whether franchised solid waste collection
26 service will be discontinued. If the property owner declares with a franchised solid waste collector,
27 the dwelling will be exempt from the annual solid waste user fee. If the property owner does not
28 declare with a franchised solid waste collector, the property owner shall be subject to the annual
29 solid waste user fee as is from time to time assessed by the board of county commissioners. Once
30 the annual solid waste user fee has been assessed against a property, there will be no refund of the
31 fee during the following year.
32

33 **Sec. 11-88. Fee to be treated as property taxes.**
34 The annual solid waste user fee as time to time assessed by the board of county commissioners
35 shall be billed with county property taxes, shall be payable in the same manner as property taxes,
36 and, in the case of nonpayment, may be collected in any manner by which delinquent personal or
37 real property taxes can be collected. The fees shall be a lien on the real property described on the
38 bill that includes the fee.
39
40 --END--

1 No franchise to collect, transport, and dispose of residential curbside solid waste within the
2 county shall be valid unless the franchise holder complies with this chapter and all applicable
3 state and local regulations.
4

5 **Sec. 11-79. Holder to present fee schedule to customers; duty of holder to remove customers'
6 solid waste.**
7 (a) Any person operating under a franchise granted under this article shall present to each
8 customer, in advance of any agreement with that customer, a schedule of his fees, as
9 authorized under this article, to be charged.
10
11 (b) Solid waste shall be removed by the franchise holder from customers' residences at least once
12 per week, provided the customer is no more than thirty (30) days in arrears in payment of
13 such fees.
14

15 **Sec. 11-80. Temporary franchises.**
16 The board of county commissioners may grant temporary franchises for the collection,
17 transportation, and proper disposal of solid waste to provide service in the event of abandonment
18 of an existing franchise or for other good cause.
19

20 **Sec. 11-81. Nonexclusive licenses for collection from commercial, industrial, and business
21 establishments.**
22 Notwithstanding any provisions of this Division to the contrary, the board of county
23 commissioners shall have the authority to grant nonexclusive licenses for the collection,
24 transportation, and proper disposal of nonhazardous solid waste from commercial, industrial, and
25 business establishments throughout the county and to grant nonexclusive licenses for the
26 collection, transportation, and proper disposal of bulky waste, yard waste, and/or any other solid
27 waste that is not subject to a franchise granted under Division 3 of this Article from any
28 establishments throughout the county. Such licenses shall be governed by Division 2 of this article.
29

30 **Sec. 11-82. Determination of disputes relating to grant of franchise or franchised territory.**
31 All conflicts and disputes regarding the granting of a franchise and disagreements over
32 franchised territory shall be determined by the board of county commissioners, and its decision
33 shall be final.
34

35 **Sec. 11-83. Transfer or abandonment.**
36 No franchise granted under this article shall be transferred by a holder without the prior
37 approval of the board of commissioners, and no person shall abandon such a franchise without one
38 hundred eighty (180) days' prior written notice thereof being given to the board of county
39 commissioners, through the Solid Waste Director. For purposes of this section, the transfer or
40 change of ownership of any share or shares of stock of a corporation not sold or customarily traded
41 on any recognized public stock exchange constitutes a transfer by a holder.
42

43 **Sec. 11-84. Termination or suspension.**
44 (a) All or any portion of a franchise granted under this article may be terminated or suspended
45 for any of the following reasons:
46 (1) Loss of state solid waste management permits by the franchise holder;

REGULAR AGENDA

PERSONNEL POLICY UPDATE

Chairman Gordon recognized Human Resources Director Allison Mauney to present an update on the county's Personnel Policy. One of the Board's strategic focuses is to become and remain an employer of choice. Human Resources staff have worked diligently to progress towards modernizing the human resource's function including practices and policies. In the fall of 2020, Commissioners approved the county's transition from a personnel ordinance to a personnel policy giving an opportunity for greater flexibility. The most recent changes

made to the personnel policy include the county's effort towards substantial equivalency. Mrs. Mauney reviewed the following PowerPoint and proposed changes to Articles I – IV of the Cleveland County Personnel Policy:

- **ARTICLE I. ORGANIZATION OF PERSONNEL SYSTEM**
 - o Section 1. Definition
 - Removed the term salary and replaced with compensation in 4 definitions
 - Clarified Part-time and Full-time employee definition
 - o Section 4. Merit Principle
 - Removed the term salary and replaced with compensation

- **ARTICLE II. POSITION CLASSIFICATION PLAN**
 - o Section 7. Administration of the plan
 - Removed the term salary and replaced with compensation

- **ARTICLE III. COMPENSATION PLAN**
 - o Section 1. Purpose
 - Removed the term salary and replaced with compensation
 - Removed statement regarding majority of county employees are paid gross wages in fixed regular amounts on a bi-weekly basis regardless of their exemption status.
 - o Section 3. Adjustment to the compensation plan
 - COLA - Added statement "Classifications not listed on the pay scale may also be subject to lump sum increases in lieu of base compensation increases, as granted by the Board of Commissioners."
 - o Section 4. Rates of Compensation Pay
 - Changed interim appointment from 60 calendar days to 30 calendar days
 - Added statement regarding interim appointment duties may be split between multiple employees and the interim increase may be split in those situations as well
 - Added new subsection for Bilingual Differential -Employees that are sufficiently fluent in languages that are beneficial to the operation of county departments may be eligible for a three (3) percent increase in consideration of providing translation services in the course of their job.
Department Heads will recommend employees for consideration based on the needs of the department. Employees will be required to successfully pass competency testing.
 - o Section 5. Compensation when a position change occurs
 - Removed the term salary and replaced with compensation
 - o Section 7. Payroll Procedure
 - Added two (2) weeks in arrears to the statement
 - o Section 9. Longevity pay plan
 - Removed the term salary and replaced with compensation

- **ARTICLE IV. RECRUITMENT AND EMPLOYMENT**
 - o Section 2. Recruitment-Responsibility of Human Resources Director
 - Added job fairs, open interviews and targeted outreach to recruitment/selection methods available
 - Added referral bonuses as a potential option for difficult-to-fill positions
 - o Section 6. Application of employment
 - Added option for an abbreviated version of the application may be used at job fairs




Allison Mauney
6.21.22

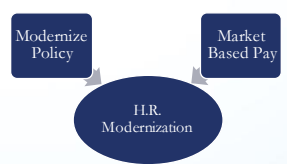
Personnel Policy Update

ARTICLES 1 -4

Background



- Focus Area- Employer of Choice
- Transitioned Ordinance to Policy fall 2021
 - Provide clarity and consistency
 - Limited regulatory authority
 - Generally flexible



2

Current Changes



Articles Covered

- Article 1: Organization
- Article 2: Position Classification
- Article 3: Compensation
- Article 4: Recruitment and Employment

Changes

- Updated compensation definitions
- Clarified part and full time employees
- Cola lump sum considerations
- Interim appointments
- Bilingual consideration of 3%
- Recruitment strategies

Outcome



Questions?

The Board thanked Mrs. Mauney and commended her staff for the information presented and all the hard work and due diligence that continues to go into modernization of the personnel policy. *(a full copy of the Cleveland County Personnel Policy is on file in the Human Resources Department and in the Clerk's Office).*

2022 REVALUATION PLANNING AND UPDATE

Chairman Gordon recognized County Manager Brian Epley to present 2022 Revaluation Planning and Update. The last county revaluation was completed in 2021. For a variety of reasons, state data suggests Cleveland County may be required to evaluate the updated market data. North Carolina General Statutes (NCGS) regulate counties to tax property via the ad valorem tax method which is Latin for “*according to value.*” Revaluation or mass re-appraisal is an attempt to fairly reflect the value to ensure property owners pay an equitable tax based on market-driven values as of January of any calendar year.

One of the critical goals, when conducting a revaluation, is to minimize year after year volatility. When there are rapid changes in the market, rising costs for a period followed by decreases in prices, conducting more often, can reduce that volatility. A revaluation will help align county tax values with market values, which is the concept and purpose of the ad valorem tax methodology. Under this methodology, if tax values are aligned with market values, it creates an equitable tax burden and a fair share. When evaluating the county's revenue tax portfolio, real property is only one of four components. There is also personal property (machinery and equipment), state boards (Duke Energy and Bell South) and motor vehicles. Each of those is evaluated annually, it is a perpetual process.

Real property is 58% of the county's \$10.6MM tax base. Those values are only adjusted to the market during the formalized reappraisal process. The best analytics to guide the county is called a sales ratio. Sales ratio is a statistical analysis that compares real property transactions throughout the year to the county's tax values. The market value is determined by the actual sales transaction. These are annually submitted to and ratified by the North Carolina Department of Revenue (NCDOR) and run through Multiple Listing Service (MLS). Any real property transaction that runs through MLS is delivered to the NCDOR. The NCDOR then compares the sales price to the tax to compute the ongoing sales ratio.

Cleveland County completed a revaluation in 2008 and there was market volatility. This was specifically due to the recession and real estate collapse that occurred at the beginning of 2008 and lingered through 2013/2014. In 2014, which was the peak of the declined real estate market, Cleveland County's tax values were 8.96% above

market values. The ratio started to return to normal in 2014/2015. At that time, the county's tax values were 2% above market value. In 2016, a revaluation was completed which aligned the county with market values completely at 100%. Between 2016 and 2020, the market started to climb again. Cleveland County completed a county-wide reappraisal in 2021 and data showed the average property value increased by 12%, which was indicated by the sales ratio of 88%. Something unprecedented has occurred since the last revaluation. Between January 2021 and December of 2021, the county's sales ratio dropped to 74.98% which means Cleveland County's tax values for real property are 25.02% under market value. Staff has researched the county's tax history. In 1986, the county's housing sales ratio was 66%, which is the lowest in the history of Cleveland County.

As real property transactions continue between January and June 2022, staff completed a random sampling of those current sales to determine the county's current sales ratio. The results show property values continue to escalate pushing the county further under current market values. That ratio is so far out of the mark that it triggers a very routine letter from the NCDOR. NCGS governs all property valuation processes and timelines, stating a mass re-appraisal must be conducted by all counties at least every eight years. The statute also reads, if you're a community that has more than 75,000 residents, and the county's sales ratio is either 15% above or below market, the county must begin planning and talking about a mass re-appraisal because the tax values are well out of balance. This is what has happened in Cleveland County. The NCDOR is requiring the county to complete and submit a revaluation no later than January 1, 2025. The Board and past Commissioners have a good track record of leveraging revaluation to try and lower the tax rate, hence the tax burden for county residents.

There are two methods of addressing the directive from the NCDOR. The first one is a full measure and list which, historically, is what the county has been doing. It requires parcel surveys/visits, evaluating additions and ensuring the asset listings are accurate and current. Due to the large number of parcels within the county, it would take up to two years to complete this type of revaluation. Rutherford County is currently working on mass reappraisal, and they started two and a half years ago. Cleveland County has the capacity to conduct this revaluation with the tax staff which will save the county from spending \$2.5MM to contract an outside company to complete the revaluation process. An alternative is a desk review and market analysis review that will take about six to eight months to complete and can also be completed by county personnel. This is a viable option as the county just completed a measure and list revaluation in 2021.

To achieve a market adjustment, there must be an assurance that the items citizens are taxed for are accurate. Cleveland County has completed random sampling with NCDOR, to ensure listings on people's real property listings are what they actually have. The county passed those tolerance tests. The Board can give direction to staff to do a market schedule of values adjustment only and forgo the full measure and list. If the Board decides to pursue the full measure and list option, Staff would immediately begin residential field reviews and data collection compilation that will continue through 2023. In the spring and summer of 2024, staff would finalize the residential reviews, begin a commercial analysis, cost impact analysis, and then in the fall of 2024, staff would publish the

county's schedule of values and hold a public hearing on those values before closing out and issuing values in January 2025. Following that, staff would mail notices of value to the citizens and begin the appeals process through the Board of Equalization and Review.

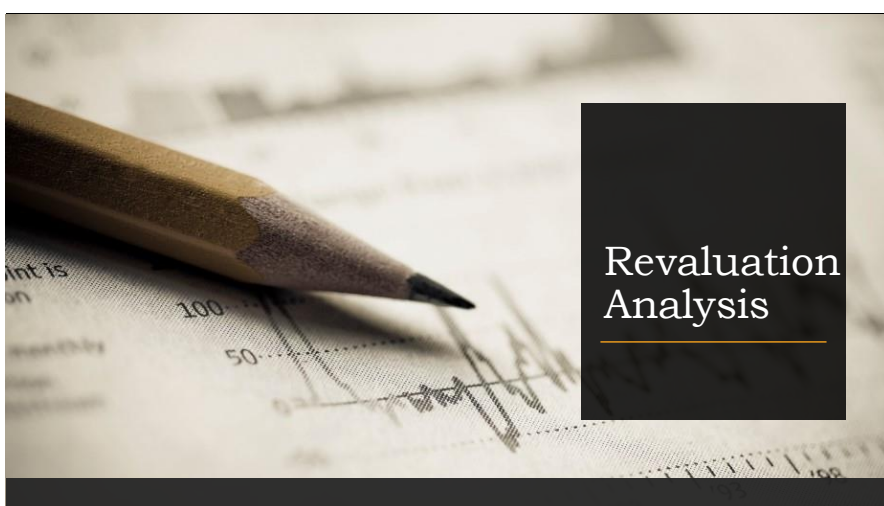
The alternative option is to have a market advancement only. Staff is prepared to conduct this through the summer of 2022 given an approved resolution and direction from the Board. Staff would conduct a statistical analysis by dividing the county into 100 – 175 neighborhoods, reviewing actual sales in those areas, and then completing a statistical representation of advancement to those values based on those sales. Staff would conclude with a January 1, 2023 value, working through any appeals and issue property tax bills in July 2023. Although it is essentially a two-year advancement, this methodology is only possible due to the confidence in the taxable real property listing.

There's a common misconception when citizens hear "reappraisal" or "revaluation" that it means a tax increase and that isn't necessarily correct. In 2021, the county completed all the required components of analyzing taxable real property. Adjustments were made for the market rate which cultivated a new tax value and the rate was adjusted to minimize the tax burden to the county's citizens. The county has experienced unprecedented changes in the market and in the environment, none of which were internally created. From staff's perspective, it is the county's responsibility to ensure policymakers are fully informed, have all of the data and the required criteria to make professional meaningful decisions.

Mr. Epley presented Commissioners with the three possible considerations:

- Approve Resolution for staff to commence a 1/1/2023 County-Wide Revaluation
- Direct Staff to begin planning a full measure and list County-Wide Revaluation to be complete by 1/1/2025
- Table discussion for further analysis and consideration at 7/12/2022 Commissioner meeting

The following information and PowerPoint were presented to Board members.



Agenda

1. What is a Revaluation – OR – Mass Re-Appraisal
2. What is the purpose and timing triggers?
3. What is the process?
4. How may it impact the average tax-payer?

Revaluation

An **ad valorem tax** ([Latin](#) for "according to value") is a [tax](#) whose amount is based on the value of a transaction or of property.

The revaluation's purpose is to **fairly reflect the value of all property and to help ensure that property owners pay equitable tax based on the value of their property**. The new values become effective on January 1, CY

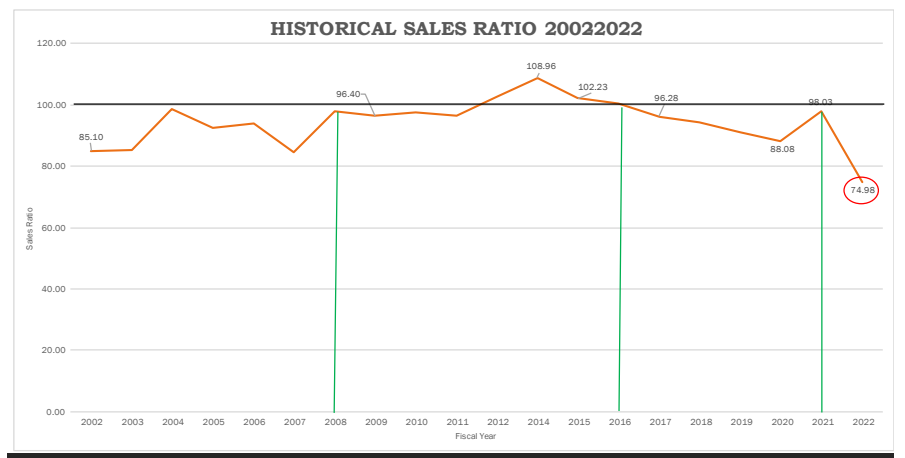
Revaluation Goals: Community

1. Minimize YoY Volatilities of Tax Valuation Changes
2. Align Tax Values W/ Market Values
3. Equitable Tax Burden

Property Tax Portfolio



Levy Type	% Of Values	Valuation Schedule
Real Property	58%	Revaluation
Personal Property	23%	Annually
State Boards	10%	Annually
Motor Vehicles	9%	Annually



REVALUATION 2023



Roy Cooper Governor | Ronald G. Penny Secretary

May 2, 2022

Ms. Sherry Lavender
Cleveland County Assessor
P. O. Box 370
Shelby, NC 28151

Dear Ms. Sherry Lavender,

NCDOS 105-286(x)(2) requires all counties with a population that is greater than 75,000 and a Sales Assessment Ratio Study median that is greater than 115% or less than 85% to conduct a reappraisal by January 1 of the third year following notification by the North Carolina Department of Revenue.

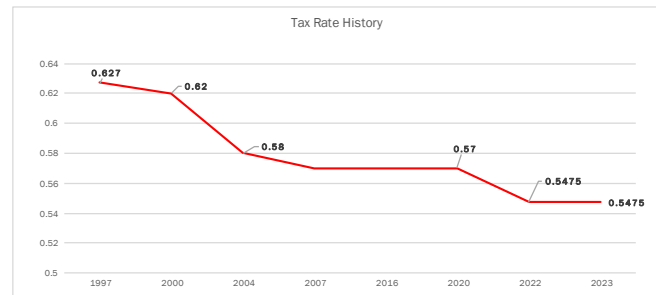
Based on our records, your county's population is greater than 75,000 and your 2022 Sales Assessment Ratio Study median is 74.98%; thus Cleveland County must conduct a reappraisal by January 1 of the third year following notification by the North Carolina Department of Revenue.

Please accept this letter as notification that Cleveland County must conduct a reappraisal no later than January 1, 2025.

Please feel free to contact our office at 919-814-1129 if you have any questions regarding this notice.

Sincerely,

REVALUATION 2023



Peer County Averages

County	Current Rate
Gaston	0.830
Union	0.7309
Burke	0.695
Lincoln	0.599
Rutherford	0.597
Catawba	0.575
Cleveland	0.6875
Group Average	0.6712

Types of Re-Valuations

- Full Measure & List W/ Market Advancement
 - 2 Year Expected Timeline
 - Performed In-House (Cost Savings Estimate \$2.5MM)

- OR -

- Desk Review and Market Advancement Only
 - 6-8 Month Deliverable
 - Performed In-House

Types of Re-Valuations

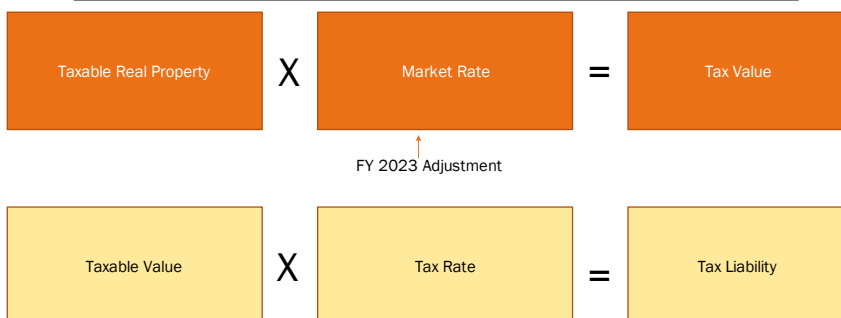
Measure & List

- Fall 2022.....Resolution to Proceed- Target 1/1/2025 Re-Appraisal
- 2023.....Residential Field Reviews and Data Collection
- Spring / Summer 2024.....Finalize Residential Reviews and Commercial Analysis
- Fall 2024.....Publish Schedule of Values / Hold Public Hearing
- January 2025.....Finalize Values
- February 2025.....Mail Notice of Values
- Spring 2025.....Analysis of Value Appeals
- July 2025.....Issue Property Tax Bills

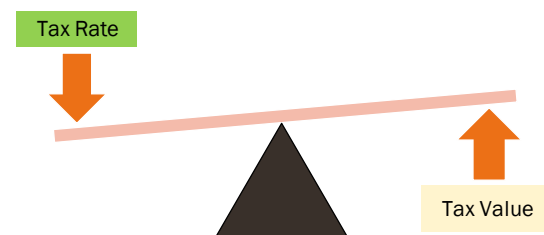
Measure & List

- Summer 2022.....Resolution to Proceed- Target 1/1/2023 Re-Appraisal
- Summer/Fall.....Statistical Analysis and Neighborhood Sales Evaluation
- Fall 2022.....Publish Schedule of Values / Hold Public Hearing
- January 2023.....Finalize Values
- February 2023.....Mail Notice of Values
- Spring 2023.....Analysis of Value Appeals
- July 2023.....Issue Property Tax Bills

Tax Liability Variables



Variable Factors



Commissioner Action Considerations

1. Approve Resolution for staff to commence a 1/1/2023 County-Wide Revaluation.
2. Direct Staff to begin planning a full measure and list County-Wide Revaluation to be complete by 1/1/2025.
3. Table discussion for further analysis and consideration at 7/12/2022 Commissioner meeting

Chairman Gordon opened the floor to the Board for questions and discussion. Commissioners spoke about the numerous phone calls they have received from concerned citizens regarding doing another revaluation during a troubling economy and rising inflation rates. Board members know NCDOR is requiring the county to complete another revaluation. Mr. Epley stated, Cleveland County is 32% out of market. He understands the Federal Reserve is likely to continue to increase interest rates. Staff is seeing a slowdown in the number of transactions of real property. In 2021, there were 341 real property transactions. For January through June of 2022, there's only been 125 transactions. Although there are substantially fewer transactions, the values are remaining high. Commissioner Hardin and Commissioner Hutchins spoke about the county's required revaluation, both commenting to table the discussion further to allow the Board more time for review.

Chairman Gordon called Tax Assessor Sherry Lavender to the podium for further Commissioner questions. He asked Mrs. Lavender to speak further about the changes to the market rate that will include covering all properties except those that are in Farm Use or Present Use Value (PUV). Mrs. Lavender explained, PUV program, is a program for commercial producing agricultural products, forestry products, and horticulture products; they are active farms. She continued, *"When applying a market rate, you set a market value for those properties and also set a PUV market, there's their market rate; and there is what they're actually taxed on, which is their use value. The difference is deferred and left on the tax scrolls. If the property ever disqualifies, tax staff will go back and pick up that deferred value and bill it for the prior three years. When evaluating PUV properties, you're setting the market and that is seen in the differences."* Chairman Gordon asked, *"When the county is setting the PUV, staff does not set the mechanics, a schedule from NCDOR is used, correct?"* Mrs. Lavender stated that was correct and explained to the Board the process of setting and adopting rates based on the NCDOR manual.

Chairman Gordon stated the following, *"When this Board lowered the tax rate, it was not one Commissioner who lowered the tax, it required at least three Commissioners. All five current Board members voted to reduce the county's tax rate after the 2021 revaluation. We lowered what was revenue neutral of the local government commission, cutting the tax rate from .57 cents to .5475 cents. The school tax rate was also reduced from .15 cents to .14 cents. The Board held the fire tax rate at 8.75 cents. When reviewing the information, citizens of Cleveland County who live inside municipality city limits should understand, those towns, or other taxing authorities didn't lower the rates. It's not always the Board of Commissioners but, the Commissioners take the blame a lot of times in this process."*

Chairman Gordon asked Mr. Epley to explain who the Local Government Commission (LGC) is and the meaning of revenue neutral. Mr. Epley explained the LGC is the government commission, which provides financial oversight to local governments. With respect to revenue neutral: There are two separate rates; revenue equal which allows accounting for no growth and revenue neutral allows the county to capture the average growth in real property. Commissioners discussed further, in detail, the revaluation options, liabilities, possible repercussions and guidelines set by NCDOR and the LGC.

ACTION: Commissioner Bridges made a motion, seconded by Commissioner Hardin, and unanimously approved by the Board to, *table the discussion for further analysis and consideration at the July 7, 2022*

Commissioner meeting.

ARTICLE 46 RESOLUTION

Chairman Gordon called Assistant County Manager Kerri Melton to the podium to present the Article 46 resolution. The North Carolina General Assembly has enacted Article 46 of Chapter 105 of the North Carolina General Statutes, the One-Quarter Cent County Sales and Use Tax Act, authorizing counties to levy a one-quarter cent (1/4 cent) sales and use tax. Identifying innovative strategies to make Cleveland County a desirable place to live, work and play with a strategic focus on population growth and enhancing the quality of life for our residents is a top priority of Cleveland County Commissioners. School district quality is one of the most important factors home buyers consider when looking for a place to live – particularly for new or expecting parents. North Carolina General Statute 115(c)-408b stipulates that public school facilities' capital requirements be included as part of the County's capital program. The average age of Cleveland County's school buildings is over 50 years old. Article 46 must be voted on by a majority vote via referendum for Article 46 to be placed on the November 2022 ballot, an approved resolution must be submitted to the Cleveland County Board of Elections by July 2022. There has been an ongoing analysis to dedicated school capital. Commissioners allocated capital into an escrow account for the school system. A facility master plan is currently underway by the school system.

Cleveland County has worked hard to diversify revenue. Article 46 is another option for the Board to be able to achieve that. Other North Carolina counties rely up to 70% - 75% on ad valorem taxes. Cleveland County does not do that. Due to the tax diversification, there so the tax burden isn't solely on property owners in the county. A sales tax increase is consumption-based, meaning people are taxed on what they use, and it evenly shares the tax burden. The proposed one-quarter of one cent would have minimal impact on the individual. Cleveland County's current sales tax rate is 6.75%. Should the proposed referendum be approved, that rate would go to 7%.

Staff completed a statistical analysis using data about the average consumer in Cleveland County. According to the data gathered, this sales tax increase would impact the average consumer by about \$1.50 per month, or approximately \$18 per year. As a reminder, this tax is consumption-based. How much a consumer spends will determine how much tax they pay. The proposed one-quarter of one cent increase does not apply to groceries or gas. In 2019, there were 45 North Carolina counties that had passed the Article 46 referendum. Since that time, five

more counties have passed the referendum. Most of the counties surrounding Cleveland County have passed and implemented the sales tax referendum. If a Cleveland County resident visits a surrounding county for entertainment, dining or shopping, they are already paying that additional sales tax.

One of the Board of Commissioners’ strategic goals is to partner with Cleveland County schools to develop a long-term school capital improvement plan. If approved, the proposed increase is an option to help fund the needs for school capital. School District quality is important to homebuyers. They want to know that the schools that their children are attending are new and that the school district is of high quality. Staff has estimated, should this be approved, the value to the county would be approximately \$3MM. Commissioners would be able to invest those earnings into an escrow account that can be used for future capital for schools within Cleveland County. Should Board members approve the resolution, staff is prepared to share and do a marketing campaign explaining to citizens what those funds would be used for. The following information and PowerPoint were presented to Board members.

Article 46 Sales Tax Referendum Discussion

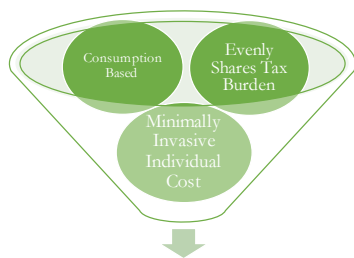


Kerri Melton
Assistant County Manager

NC Sales and Use Tax Act

North Carolina General Assembly has enacted Article 46 of Chapter 105 of the North Carolina General Statutes, the “One-Quarter Cent County Sales and Use Tax Act”, authorizing counties to levy a one-quarter cent (1/4 cent) sales and use tax.

Advantages of Sales Tax Increase



Community Transforming Resources

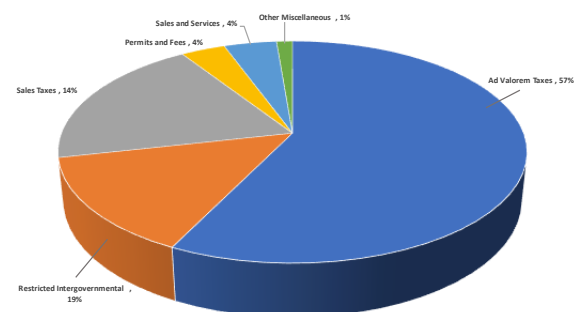
Passed by 49 NC Counties



Objectives

1. What is Article 46?
2. Why a sales tax increase?
3. Can I afford it and who else has done it?
4. What will be the use?

Why a sales tax increase?



Can I afford it?



Current Sales Tax Rate 6.75%
If approved 7.00%

Economic Impact to Average Consumer is less than:
\$1.50 per month –or- \$18 per year

Sales tax increase does not apply to groceries or gas/fuel

What will it be used for

Commissioners Strategic Goal:

Partner with Cleveland County Schools to:

- Increase teacher supplements
- Develop a long-term school capital improvement plan



School Capital

- School District quality important to homebuyers
- Average age – 50 years
- Estimated \$3,000,000
- Commissioners to invest earnings in an escrow account



Question on the Ballot

One-Quarter Percent Local Sales and Use Tax	
Local sales and use tax at the rate of one-quarter percent (0.25%) in addition to all other State and local sales and use taxes.	
<input type="radio"/>	For
<input type="radio"/>	Against
End of Ballot	

DISCUSSION AND ACTION

Approve or deny adoption of 1/4 cent sales tax resolution

Chairman Gordon opened the floor to the Board for questions and discussion. Commissioners discussed the history of Article 46 with county voters, the importance of school capital improvements that could be made and recommended putting this on the ballot to let the voters decide. They also spoke of the importance of getting the correct message out into the community and letting the citizens know the additional funds will be used for school capital. Chairman Gordon inquired about the distribution of funds if approved, emphasizing the importance of equal disbursement to all the schools in Cleveland County, not just one or two particular districts. Mrs. Melton explained it would be staff's recommendation to put the money that is earned as part of the Article 46 tax be put into the escrow account that has already been created by Commissioners for school capital and work in partnership with the School Board when a request comes in to then make a partnered decision together on whether or not fulfilling the request would be useful.

ACTION: Commissioner Bridges made a motion, seconded by Commissioner Whetstine, and unanimously adopted by the Board to, *approve the adoption of the one-quarter of one cent sales tax resolution.*



Resolution

17-2022

Resolution Supporting One-Quarter Cent (1/4 cent) Local Sales and Use Tax Referendum

WHEREAS, identifying innovative strategies to make Cleveland County a desirable place to live, work and play with a strategic focus on population growth and enhancing the quality of life for our residents is a top priority of Cleveland County Commissioners; and,

WHEREAS, School district quality is one of the most important factors home buyers consider when looking for a place to live – particularly for new or expecting parents; and,

WHEREAS, N.C.G.S 115(c)-408b stipulates that public school facilities' capital requirements be included as part of the County's capital program and the average age of Cleveland County's school buildings is over 50 years old; and,

WHEREAS, the North Carolina General Assembly has enacted Article 46 of Chapter 105 of the North Carolina General Statutes, the "One-Quarter Cent County Sales and Use Tax Act", authorizing counties to levy a one-quarter cent (1/4 cent) sales and use tax; and,

WHEREAS, such sales and use tax would lessen the County's dependence on property tax and would be a preferable manner to pay for the construction; and,

WHEREAS, to enact this local sales and use tax, Cleveland County must conduct an advisory referendum in accordance with the provisions of North Carolina General Statute 163-287; and,

WHEREAS, an advisory referendum will be placed on the November 2022 election ballot;

NOW THEREFORE BE IT RESOLVED:

Section 1: The Cleveland County Board of Commissioners hereby states its intent to use the revenues from Article 46 One Quarter Cent (1/4 cent) Local Sales and Use Tax, if approved by the voters of Cleveland County, for school capital in Cleveland County.

Section 2: The Cleveland County Board of Commissioners believe the amount of additional sales tax generated to be approximately \$3,000,000.

Section 3: It is the intention of the Cleveland County Commissioners to invest additional sales tax in an escrow account for the purpose of funding school capital projects.

Section 4: A referendum is hereby called during the times the polls are open for the November election, at which there shall be submitted to voters of Cleveland County the question stated in Section 6 of this resolution.

Section 5: The Board of Commissioners is requesting Cleveland County Board of Elections hold said referendum and take all necessary steps required under North Carolina General Statutes 163-287.

Section 6: The form of the question to appear on the ballot and in the instruction to voters shall appear as follows:

Local sales and use tax at the rate of one-quarter percent (0.25%)
in addition to all other State and local sales and use taxes.

[] FOR [] AGAINST

Section 7: This resolution shall take effect upon its passage.

Adopted this the 21st day of June, 2022.


Kevin Gordon, Chairman
Cleveland County Board of Commissioners

ATTEST:


Phyllis Nowlen, Clerk
Cleveland County Board of Commissioners



BOARD APPOINTMENTS

CLEVELAND COUNTY JUVENILE CRIME PREVENTION COUNCIL

ACTION: Commissioner Whetstine made the motion, seconded by Commissioner Bridges, and unanimously adopted by the Board, *to reappoint Jeanne Patterson to serve as a member of this board*, for a period of two years, scheduled to conclude June 30, 2024.

CLEVELAND COUNTY MEMORIAL LIBRARY BOARD OF TRUSTEES

ACTION: Commissioner Hardin made the motion, seconded by Commissioner Bridges, and unanimously adopted by the Board, *to reappoint Michelle Garey to serve as a member of this board*, for a period of three years, scheduled to conclude June 30, 2025.

CLOSING REMARKS

Commissioner Bridges – thanked the staff for their continued hard work.

Commissioner Hardin – stated the following, *“At our last Board of Commissioners meeting staff presented the proposed operating budget for FY 2022 – 2023. The budget contained a lot of positive items that I have been a part of developing in employee support such as employee compensation, base wage adjustments and advancement of public safety and law enforcement funding, increases in educational funding, funding for the county capital program and Justice Center projects, million dollars into broadband expansion, new positions for increased service delivery and a lot of other priorities. However, I voted against approving the budget as presented. I just would like everyone to know that my vote was determined by one isolated budget amount specific to an allotment to*

a nonprofit. And it was distinctly more than I felt comfortable supporting with so many other competing priorities in our county. “

Commissioner Whetstine – spoke of the opening of the Liberty Mountain drama play.

ADJOURN

There being no further business to come before the Board at this time, Commissioner Hardin made a motion, seconded by Commissioner Bridges and unanimously adopted by the Board, *to adjourn*. The next meeting of the Commission is scheduled for *Tuesday, July 12, 2022 at 6:00 p.m.* in the *Commissioners Chambers*.

*Kevin Gordon, Chairman
Cleveland County Board of Commissioners*

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