

**Cleveland County Board of Commissioners**  
**September 3, 2019**

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

**PRESENT:** Ronnie Whetstine, Vice-Chair  
Johnny Hutchins, Commissioner  
Doug Bridges, Commissioner  
Deb Hardin, Commissioner  
Brian Epley, County Manager  
Tim Moore, County Attorney  
Phyllis Nowlen, Clerk to the Board  
Kerri Melton, Assistant County Manager  
Chris Green, Tax Administrator  
Elliot Engstrom, Senior Staff Attorney  
Lucas Jackson, Finance Director  
Allison Mauney, Human Resources Director  
Perry Davis, Emergency Management Director/Fire Marshal  
Lorie Poston, E-911 Communications Director  
Ryan Wilmoth, Emergency Medical Services Director  
Marty Gold, Information Technology Director  
Katie Swanson, Social Services Director  
Scott Bowman, Maintenance Director  
Betsy Harnage, Register of Deeds

**ABSENT:** Susan Allen, Chairman

**CALL TO ORDER**

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

**AGENDA ADOPTION**

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

**CITIZEN RECOGNITION**

No one registered to speak.

**CONSENT AGENDA**

**APPROVAL OF MINUTES**

The Clerk to the Board included the Minutes from the ***June 4, 2019*** and the ***June 18, 2019 regular meeting,*** in board members packets.

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

**TAX ADMINISTRATION: ORDER OF COLLECTIONS 2019**

Adoption of Order directing the Tax Collector to collect taxes for 2019 and prior years. This Order is set forth in accordance with N.C.G.S. 105-321(b) and shall have the force and effect of a judgment and execution against real and personal property.

**ACTION:** Commissioner Hutchins made the motion, seconded by Commissioner Hardin, and unanimously adopted by the Board, ***to approve the Order of Collection.***

State of North Carolina  
 County of Cleveland  
 Order of Collection

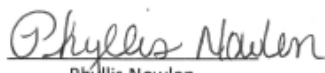
To Necole' Richard, Tax Collector:

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records for the year 2019, and all taxes outstanding for tax years 2009 through 2018, as filed in the office of the Tax Collector and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in Cleveland County and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, and to use or cause to be used, all remedies provided by law.

Adopted this, the 3<sup>rd</sup> day of September, 2019.

  
 Susan Allen, Chair  
 Cleveland County Board of Commissioners

Attest:

  
 Phyllis Nowlen  
 Cleveland County Clerk



**EMERGENCY MANAGEMENT: BUDGET AMENDMENT (BNA #006)**

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

<u>Account Number</u>	<u>Project Code</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
010.437.4.350.00	NCDPS-LEPC	Emergency Management/State Grant	\$1,000.00	
010.437.5.700.00	NCDPS-LEPC	Emergency Management/Grants	\$1,000.00	

**Explanation of Revisions:** Budget allocation for \$1,000 in funds from the North Carolina Department of Public Safety (NCDPS) to be used to provide training, food and supplies to the local Emergency Planning Committee.

**SHERIFF'S OFFICE: BUDGET AMENDMENT (BNA #007)**

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

<u>Account Number</u>	<u>Project Code</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
010.438.4.310.00	16738-TECH	Law Enf Grants/Fed Govt Grants	\$24,386.00	
010.438.5.211.00	16738-TECH	Law Enf Grants/Controlled Equip	\$11,236.00	
010.438.5.910.00	16738-TECH	Law Enf Grants/Capital Equip	\$13,150.00	

**Explanation of Revisions:** Budget allocation for \$24,386 in grant funds received from North Carolina Department of Public Safety (NCDPS) Governor's Crime Commission for purchase of items for Technology Advancement.

**HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #008)**

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

<u>Account Number</u>	<u>Project Code</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
012.540.4.310.40		WIC/Grants	\$7,980.00	
012.540.4.310.41		WIC/Grants	\$3,490.00	
012.540.4.310.43		WIC/Grants	\$1,206.00	
012.540.5.211.40		WIC/Controlled Equipment	\$2,510.00	
012.540.5.210.40		WIC/Departmental Supplies	\$1,060.00	
012.540.5.311.41		WIC/Educational-Certif-Training	\$3,240.00	
012.540.5.581.40		WIC/Awards-Appreciation	\$4,410.00	
012.540.5.311.41		WIC/Educational-Certif-Training	\$250.00	
012.540.5.211.43		WIC Controlled Equipment	\$826.00	
012.540.5.581.43		WIC/Awards-Appreciation	\$380.00	

Explanation of Revisions: Budget allocation for \$12,676 in funds for Cleveland County WIC program. The North Carolina Department of Health and Human Services and Nutrition Services Branch as approved a special time-limited fund to the county. The funds are to be used for equipment, educational material and supplies.

**HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #009)**

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

<u>Account Number</u>	<u>Project Code</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
012.548.4.540.26		SYNAR/Federal Grants	\$50,000.00	
012.548.5.121.00		SYNAR/Salaries	\$11,849.00	
012.548.5.131.00		Social Security	\$735.00	
012.548.5.132.00		Retirement	\$1,068.00	
012.548.5.133.00		Hospital Insurance	\$2,700.00	
012.548.5.134.00		Dental Insurance	\$45.00	
012.548.5.135.00		401K	\$592.00	
012.548.5.136.00		Medicare	\$172.00	
012.548.5.211.26		SYNAR/Equipment	\$3,800.00	
012.548.5.310.26		SYNAR/Travel	\$500.00	
012.548.5.370.26		SYNAR/Advertising	\$25,139.00	
012.548.5.581.26		SYNAR/Awards-Incentives	\$3,400.00	

Explanation of Revisions: Budget allocation for \$50,000 in funds awarded to the Health Department. The North Carolina Department of Health and Human Services has awarded the county these funds to conduct tobacco merchant education and environmental scans of tobacco, vape and CBD retailers in an effort to prevent underage sales of those products to minors.

**FINANCE: AMENDMENT TO AUDIT CONTRACT**

North Carolina General Statute 159-34 requires each unit of local government in North Carolina to have its' accounts audited at the close of each fiscal year by a certified public accounting firm. When the original contracts were prepared for the audit, the Office of the State Auditor indicated that the Medicaid portion of the audit would be a separate engagement as it was for the prior year. However, after the contracts were issued and approved, additional correspondence was received from the Office of State Auditor that indicated that they were not going to require a separate report as they had for the year ending June 30, 2018. The same procedures will be performed for the audit engagement. The amendment to the contract would add \$5,500 for Medicaid testing that was originally going to be billed as separate engagement. (copy found in Minute Book \_\_\_\_\_ page \_\_\_\_\_).

**ACTION:** Commissioner Hutchins made the motion, seconded by Commissioner Hardin, and unanimously adopted by the Board, ***to approve the Amendment to the Audit Contract.***

**LEGAL: RATIFICATION OF NONDISCLOSURE AGREEMENT**

As part of wireless E-911 services, the County may come into possession of confidential information from AT&T. The non-disclosure agreement states that the County will keep such information confidential. The

obligation to keep information confidential does not apply to information that is required by law or regulation to be disclosed. The agreement is a routine part of county operations. It must be ratified by the Board of Commissioners because the E-911 Communications Director does not possess independent authority to enter into contracts on behalf of the County. (*copy found in Minute Book \_\_\_\_\_ page \_\_\_\_\_*).

**ACTION:** Commissioner Hutchins made the motion, seconded by Commissioner Hardin, and unanimously adopted by the Board, *to approve the ratification of E-911 nondisclosure agreement.*

### **PUBLIC HEARING**

#### **MOUNTAINSIDE DRIVE ROAD PAVING ASSESSMENT**

Vice-Chairman Whetstine recognized Senior Planner Chris Martin to present the Mountainside Drive Road Paving Assessment. In 2018, a petition was received from the residents of Mountainside Drive to participate in the Road Paving Assessment Program. As part of this project, each of the twenty-five properties on Mountainside Drive will be assessed at an “equal rate per lot” to pave this street in accordance with North Carolina Department of Transportation (NCDOT) standards.

Cleveland County may finance the costs of improvements made under the supervision of NCDOT to streets in the unincorporated areas of the county, which are not a part of the state-maintained system. These streets in order to be accepted by NCDOT, shall be improved to meet the standards of the Secondary Roads Council and therefore be accepted for state maintenance.

Mr. Martin reminded Commissioners, at their last meeting, held on August 6, 2019, the Board approved a preliminary resolution describing the intent to improve Mountainside Drive, the terms of the re-payment for the property owners and set a public hearing date for September 3, 2019. The submitted petition represents eighty percent of the lots and eighty-seven percent of the road frontage, satisfying the minimum required by NCGS 153A-205. Area contractors on the NCDOT Contractor Directory, were sent a Request for Proposal (RFP) to solicit bids on this project in July 2019. The RFP was also advertised on the County’s website. The following qualified bids were received August 9, 2019:

- Sunny Day Landscaping \$189,780
- B&N Grading \$198,171
- Cleveland Contractors \$220,810.72
- Quinn Sales, Inc. \$253,150

If the final resolution is adopted, staff recommends awarding the contract to B&N Grading, Inc. for \$198,171. B&N Grading is a full-service contractor, NCDOT qualified, and has positive references from NCDOT. The County will pay the Contractor and the property owners will reimburse the County over a period of five years at 3.25% interest.

Vice-Chairman Whetstine opened the Public Hearing at 6:14 pm for anyone wanting to speak for or against the Mountainside Drive Road Paving Assessment. (*Legal Notice was published in the Shelby Star on Friday, August 23, 2019*).

**Amy Smith, 130 Mountainside Drive, Shelby** – spoke in favor of the Mountainside Drive Road Paving Assessment. Mrs. Smith reviewed the hardships and safety hazards the neighborhood has endured due to the deteriorating road conditions. She thanked the Board for their time and asked them to consider approving the final resolution.

**William Rice, 105 Mountainside Drive, Shelby** – stated when he bought his property over ten years ago, he did not know there were HOA or maintenance fees for a private road. He sympathizes with the other residents on Mountainside Drive in regards to the road conditions and the difficulty of getting their children on the school bus however, Emergency Responders, UPS, Fed-Ex and other contractors have no problems traveling on this road. He asked for an explanation as to why he has to pay back on the five-year loan when he only uses three hundred feet of the road.

**James Waseman, 122 Mountainside Drive, Shelby** – spoke in favor of the Mountainside Drive Road Paving Assessment. He thanked the Board and staff for the time and work they have put in to make this project possible. Mr. Waseman echoed Mrs. Smith's safety concerns and stated the road improvement plan will make the neighborhood travel safe again. In closing, he asked Commissioners to consider the zero percent interest rate and thirty percent discount rate that was discussed over a year ago when the road paving assessment was first started.

**Benjamin West, 140 Mountainside Drive, Shelby** – spoke in favor of the Mountainside Drive Road Paving Assessment. Mr. West lives at the very end of Mountainside Drive and this project is very important to him and his family. He reverberated the previous comments on the importance to the neighborhood for the completion of the road improvement plan. Mr. West thanked the Board for their consideration in this project.

**John Shanna, 126 Mountainside Drive, Shelby** – spoke in favor of the Mountainside Drive Road Paving Assessment. Mr. Shanna reviewed the difficulties and inconvenience the community has endured over the last year due to the worsening road conditions of Mountainside Drive.

**Jonas Hanson, 109 Mountainside Drive, Shelby** – spoke in favor of the Mountainside Drive Road Paving Assessment. Mr. Hanson reiterated the previous comments made about the road conditions and complications their neighborhood has undergone due to the road conditions declining. He thanked the Commissioners for their time and asked them to consider approving the road paving assessment.

**Julie Waseman, 122 Mountainside Drive, Shelby** – spoke in favor of the Mountainside Drive Road Paving Assessment. She outlined the financial responsibility of the homeowners who reside on Mountainside Drive and thanked the Board for their time and consideration on this project.

**William Rice, 105 Mountainside Drive, Shelby** – stated he did not want to rebut the comments made but to support the comments regarding the Board to consider the zero percent interest rate and a thirty percent discount rate that was discussed previously.

Hearing no further comments, Vice-Chairman Whetstine closed the Public Hearing at 6:34 pm.

Vice-Chairman Whetstine opened the floor to the Board for questions and discussion. Commissioner Hutchins stated he supports the paving of Mountainside Drive and reminded the Board of the incomplete requirements of the first contractor. He concluded by explaining if discounts were given, the County would not have enough funds to complete the remaining twenty-six roads that need to be paved. Commissioner Bridges advised a year and a half ago the County Manager and staff was asked to form a plan that would assist communities in the county who are in need of road paving assistance. A strategy was formed and the residents of Mountainside Drive are the first residents to be able to utilize the financing plan.

**ACTION:** Commissioner Hutchins made the motion, seconded by Commissioner Bridges, and unanimously adopted by the Board, ***to adopt the Mountainside Drive Road Paving Assessment Resolution and award the bid to B&N Grading, Inc.***



**PLANNING DEPARTMENT: CASE 19-09; REQUEST TO REZONE PROPERTY FROM RESIDENTIAL (R) TO GENERAL BUSINESS CONDITIONAL DISTRICT (GB-CD) AT 735 WINN ROAD**

Vice-Chairman Whetstine called Senior Planner Chris Martin to the podium to present case 19-09; request to rezone property from Residential (R) to General Business – Conditional District (GB-CD) at 735 Winn Road. Jay



and Deborah Carpenter own the property located at 735 Winn Road which is one acre and is located south of Mooresboro near the county line. The Carpenter's have acquired the land and wish to construct a building to operate a sign business at this location. They have submitted an application and site plan showing how the property will be used. This area is comprised mostly of rural residential uses, with a home-based auto sales business along the same road. The surrounding zoning districts include Residential, with the auto sales parcel zoned Rural Agriculture Conditional District. The Land Use Plan designates this area as future Residential.

Case 19-09 was presented to the Planning Board who voted 6-1 to recommend approving the rezoning request from Residential to General Business Conditional District with the following conditions:

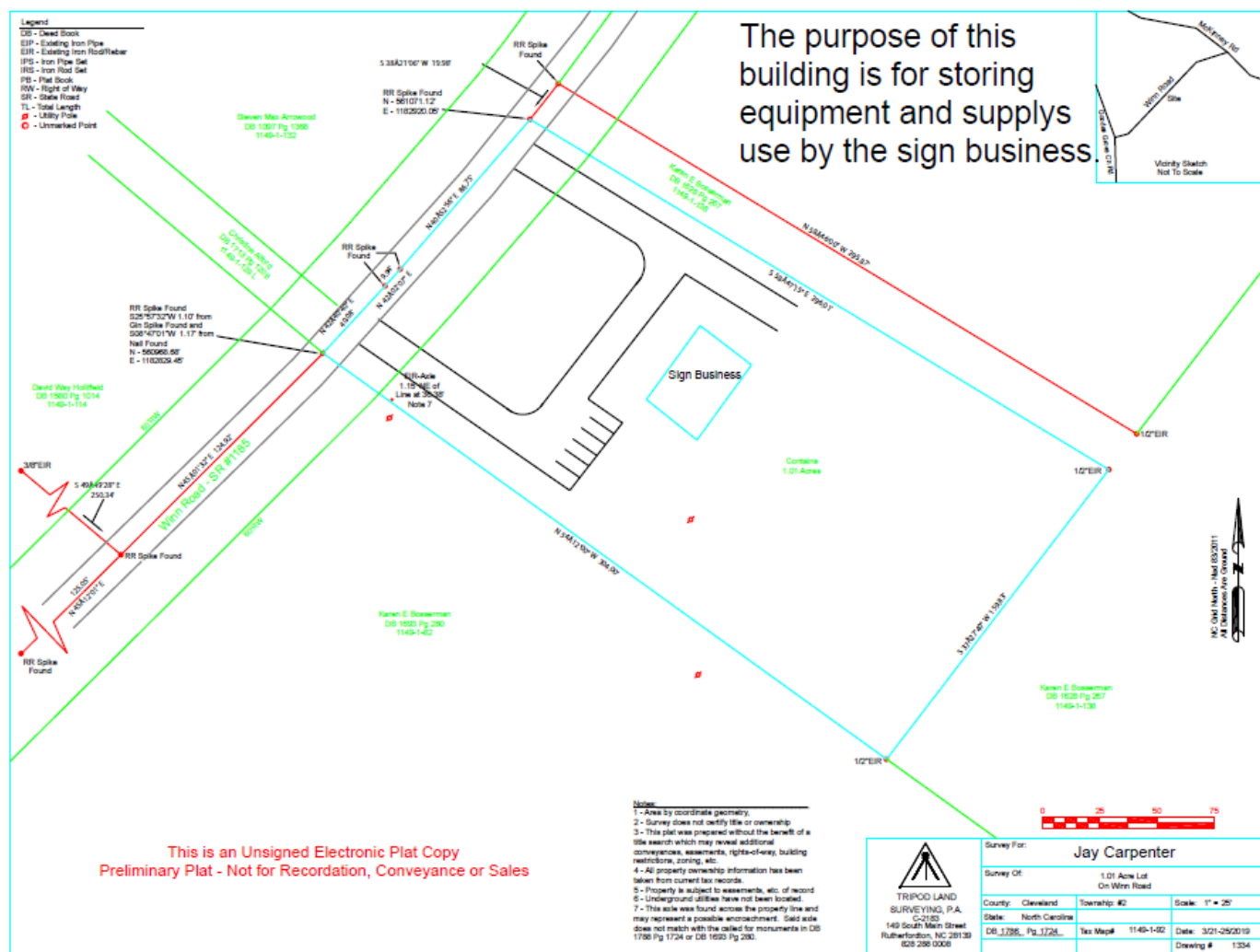
- No wall pack lighting allowed on the building or light spillage onto adjoining properties.
- Appropriate NCDOT driveway permits obtained or a waiver issued by the NCDOT.
- 4/12 pitch on the building's roof.
- No signage other than a non-lit sign on the door or window.
- No outdoor storage of materials, except for vehicles used in the business, which can be stored behind the building.
- The footprint of the building shall not exceed 1800 square feet.
- No more than two bay doors on the front of the building.

**Case # 19-09 Re-Zoning for 735 Winn Road R to GB-CU  
Zoning Map, Parcel #61359 1.01 acres**



**Case # 19-09 Re-Zoning for 735 Winn Road R to GB-CU  
Aerial Map, Parcel #61359 1.01 acres**





Vice-Chairman Whetstine opened the Public Hearing at 6:48 pm for anyone wanting to speak for or against case 19-09; request to rezone property from Residential (R) to General Business – Conditional District (GB-CD) at 735 Winn Road. (Legal Notice was published in the Shelby Star on Friday, August 23 and Friday, August 30, 2019).

Hearing no comments, Vice-Chairman Whetstine closed the Public Hearing at 6:49 pm.

Vice-Chairman Whetstine opened the floor to the Board for questions and discussion. Commissioner Bridges stated he attended the Planning Board meeting and it was mentioned more trees needed to be planted for the property to be in compliance with the zoning conditions however, the neighbor next to 735 Winn Road has asked that no more trees be planted. He asked Mr. Martin if the Carpenter’s will be required to plant more landscaping. Mr. Martin stated the adopted county code does describe a required screening when a business district is adjoining a residential area. The existing vegetation can be used as the required screening and staff will work with both land owners to ensure they are both satisfied.

**ACTION:** Commissioner Bridges made the motion, seconded by Commissioner Hardin and unanimously approved by the Board to, *approve the request to rezone property from Residential (R) to General Business – Conditional District (GB-CD) at 735 Winn Road as the proposed use was consistent with the area around it and would not negatively impact the surrounding community.*

**REGULAR AGENDA**

**FINAL RESOLUTION INSTALLMENT FINANCING AND BUILDING ACQUISITION**

Vice-Chairman Whetstine called County Manager Brian Epley to the podium to present the Final Resolution Installment Financing and Building Acquisition. In 2016 the county completed a facility master plan which identified the Cleveland County Courthouse as heavy compression area that needed to be addressed. The



opportunity to acquire the Shelby Star building is an advantageous opportunity for the county to relieve some compression in the Courthouse. Mr. Epley reviewed the following PowerPoint with the Board.

**LEASE AGREEMENT INFO**

Landlord: 315 East Graham (Shelby), LLC  
 Tenant: Halifax Gaston/Shelby LLC

- Commencement Date: May 1, 2013 - May 1, 2033
- Rent: Approximately \$100,000 per year
- Insurance & Maintenance: Tenant has to maintain insurance for fire, property damages, and extended risk, specifically including flood damage. Tenant also has to maintain liability insurance. Landlord has no obligation to make any improvements to the leased premises.
- Terms & Lease Agreement would transfer with acquisition of property by County.
- Lease term- Shall remain the same. County may request the Lessee to vacate property given a 120-day formal notice.

**Finance Recommendations**

YEAR	LEASE RENT	(DEBT PYMT)	NET COST
2020	\$100,000	\$ -0-	\$ 100,000
2021	\$100,000	\$ (160,000)	\$ (58,000)
2022	\$100,000	\$ (160,000)	\$ (58,000)
2023	\$100,000	\$ (160,000)	\$ (58,000)

Net Cost per square ft..... \$42

**Finance Recommendations**

Recommended Lender - Zion Bank

- Amount Financed \$1,500,000
- 15 year Term
- No Bank Closing Cost Fees
- No penalty/premium for prepayment

Closing Date - 9/26/19  
 First Debt Payment - 9/1/20 FY 20-21  
 Final Maturity - 9/1/34

Annual Debt Service Requirements		
Debt Service Payment	-	\$158,000
Less -Current Lease Action	-	(100,000)
Approx. Annual County Cost	-	\$58,000

**Financing Schedule**

- May - Staff Property Evaluation
- June - RFP submission
- Mid July - Phase 1 Environmental Analysis
- July 30<sup>th</sup> - Review RFP responses and compare proposals
- August 6<sup>th</sup> - Public Hearing/Consideration of winning bidder
- August 29<sup>th</sup> - Agenda deadline for September 3<sup>rd</sup> County Board meeting.
- September 3<sup>rd</sup> - County Board considers adopting Final Resolution
- September 10<sup>th</sup> -LGC considers approving financing
- September 26<sup>th</sup> - Close on financing

**Preliminary Finding Resolution & Installment Financing Contract Package Resolution**

- Preliminary Finding Resolution, August 6, 2019

Approved Action Item	Pre-Approved by LGC
Public Purpose Need - Hold Public Hearing	✓
Affordability Analysis	✓
Preliminary Approval of Zion Public Finance	✓

- Installment Financing Contract Package Resolution - For Consideration September 3, 2019

Recommended Approval Items
Approve Financing Documents
Approve Transactional Documents
Authorize County Staff to complete closing

**Questions?**

**ACTION:** Commissioner Hutchins made the motion, seconded by Commissioner Bridges and unanimously adopted by the Board to, **approve the Final Resolution Installment Financing and Building Acquisition.** (full copy of the Installment Financing Contract and Deed of Trust is filed in the Clerk's office).

**COMMISSIONER REPORTS**

**Commissioner Bridges** – gave an update on the progress of the expansion at the Shelby Airport and the fencing project at the fairgrounds.

**Commissioner Hutchins** – attended the North Carolina Association of County Commissioners annual conference with Commissioner Bridges. He spoke about several of the workshops they attended. Commissioner Hutchins attended several other community board meetings on which he serves.

**Commissioner Whetstine** – spoke about the 2019 American Legion World Series and other events he attended in the county.

**ADJOURN**

There being no further business to come before the Board at this time, Commissioner Hutchins made a motion, seconded by Commissioner Bridges, and unanimously adopted by the Board, *to adjourn the meeting*. The next meeting of the Commission is scheduled for *Tuesday, September 17, 2019 at 6:00 p.m. in the Commissioners Chambers located at 311 E. Marion St., Shelby.*

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*Ronnie Whetstine, Vice-Chairman  
Cleveland County Board of Commissioners*

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