

Cleveland County Board of Commissioners
January 17, 2023

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
Ronnie Whetstine, Vice-Chair
Johnny Hutchins, Commissioner
Doug Bridges, Commissioner
Deb Hardin Commissioner
Tim Moore, County Attorney
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
Chris Martin, Planning Director
Tiffany Hansen, Health Department Director
Sherry Lavender, Tax Assessor
Lucas Jackson, Finance Director
Darryl Sando, Electronic Maintenance Director
Betsy Harnage, Register of Deeds
Alison Mauney, Human Resources Director
Jason Falls, Business Development Director
Josh Davis, Solid Waste Director
Stori McIntyre, E-911 Communications Director
Scott Bowman, Maintenance Director
Clifton Philbeck, Board of Elections Director

CALL TO ORDER

Chairman Gordon called the meeting to order and invited anyone from the audience to lead the Pledge of Allegiance and provide the invocation. Business Development Director Jason Falls led the audience in the Pledge of Allegiance and provided the invocation.

AGENDA ADOPTION

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

EARLY BUSINESS

INTRODUCTION OF INTERIM COUNTY MANAGER

Chairman Gordon shared County Manager Brian Epley has accepted the County Manager position in Burke County, North Carolina. Each Board member gave congratulations and well wishes for Mr. Epley's future endeavors.

Commissioners announced the appointment of Interim County Manager Todd Carpenter effective February 1, 2023. Mr. Carpenter is a lifelong Cleveland County resident who brings more than 38 years of local government experience to the position. A search for a permanent County Manager is underway. The Board will be utilizing a nationwide executive search firm to conduct the search.

CITIZEN RECOGNITION

Robert Williams, 814 E. Stagecoach Trl, Fallston – spoke about several items on the agenda. He gave his opinion on items including the sale of county-owned property, High-Quality Governance resolution, and the Justice Center project.

Carter York, no address given – spoke about the Cleveland County Fairgrounds and its management. He would like to see improvements in the fairgrounds, maintenance, upkeep of the property, and improved agriculture programs. He also spoke about his concern with the financial and business management of the Fair Board.

CONSENT AGENDA

APPROVAL OF MINUTES

The Clerk to the Board included the Minutes from the **December 13, 2022** regular Commissioners’ meeting in Board members’ packets.

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

TAX COLLECTOR’S MONTHLY REPORT

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

TOTAL TAXES COLLECTED DECEMBER 2022			
YEAR	AMOUNT-REAL	AMOUNT-GAP	COMBINED AMT
DEF REV	\$0.00	\$0.00	\$0.00
2022	\$14,464,372.23	\$3,045.34	\$14,467,417.57
2021	\$47,502.46	\$461.53	\$47,963.99
2020	\$10,706.95	\$577.39	\$11,284.34
2019	\$8,378.59	\$0.00	\$8,378.59
2018	\$3,551.86	\$0.00	\$3,551.86
2017	\$2,666.30	\$0.00	\$2,666.30
2016	\$2,808.11	\$0.00	\$2,808.11
2015	\$895.88	\$0.00	\$895.88
2014	\$379.28	\$0.00	\$379.28
2013	\$680.66	\$0.00	\$680.66
2012	\$0.00	\$0.00	\$0.00
			<u>\$14,546,026.58</u>
TOTALS	\$14,541,942.32	\$4,084.26	\$14,546,026.58
DISCOUNT	\$35.88		\$35.88
INTEREST	\$20,167.29	\$233.85	\$20,401.14
TOLERANCE	\$19.92	\$0.94	\$20.86
ADVERTISING	\$322.00		
GARNISHMEN	\$221.79	GAP BILL FEES	DEFERRED GAP
NSF/ATTY	\$30.01	\$247.16	\$11,099.55
LEGAL FEES	\$150.00		
TOTALS	\$14,562,889.21	\$4,566.21	
MISC FEE	\$0.00		GRAND TOTAL
TAXES COLL	\$14,562,889.21		\$14,567,455.42
	\$0.00		\$0.00
	\$14,562,889.21		\$14,567,455.42
TOTAL TAXES UNCOLLECTED DECEMBER 2022			
	AMOUNT-REAL	AMOUNT-GAP	COMBINED AMT
2022	\$21,375,939.64	\$143,065.78	\$21,519,005.42
2021	\$962,467.48	\$89,964.82	\$1,052,432.30
2020	\$643,283.60	\$46,336.93	\$689,620.53
2019	\$619,070.47	\$0.00	\$619,070.47
2018	\$321,390.68	\$0.00	\$321,390.68
2017	\$205,785.20	\$0.00	\$205,785.20
2016	\$150,796.88	\$0.00	\$150,796.88
2015	\$123,910.38	\$0.00	\$123,910.38
2014	\$126,694.53	\$0.00	\$126,694.53
2013	\$94,648.23	\$0.00	\$94,648.23
2012	\$0.00	\$0.00	\$0.00
		\$0.00	\$0.00
TOTAL UNCOLLECTED	\$24,623,987.09	\$279,367.53	\$24,903,354.62
DEF REV	\$0.00	\$126,392.34	\$126,392.34
TOTAL UNCOLLECTED	\$24,623,987.09	\$405,759.87	\$25,029,746.96

TAX ABATEMENTS AND SUPPLEMENTS AND PENDING REFUNDS/RELEASES

The Tax Assessor provided Commissioners with a detailed written report regarding tax abatements and supplements during **December 2022.** The monthly grand total for tax abatements was listed as (\$856,621.74) and the monthly grand total for tax supplements was listed as \$726,441.78.

SHERIFF'S OFFICE: BUDGET AMENDMENT (BNA #033)

ACTION: Commissioner Whetstine made a motion, seconded by Commissioner Hutchins, 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>
010.441.4.810.19		Sheriff's Office/Donation-Sheriff Christmas Proj	\$3,500.00	
010.441.5.790.19		Sheriff's Office/ Donation-Sheriff Christmas Proj	\$3,500.00	

Explanation of Revisions: Budget allocation for \$3,500 in funds received to purchase items for children and families through the Sheriff Christmas Project.

SOCIAL SERVICES: BUDGET AMENDMENT (BNA #034)

ACTION: Commissioner Whetstine made a motion, seconded by Commissioner Hutchins, 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>
011.519.5.512.09		Public Assistance/Public Asst-LIHWAP	\$71,000.00	
011.519.4.310.00		Public Assistance/Federal Govt Grants	\$71,000.00	

Explanation of Revisions: Budget allocation for \$71,000 in reallocation of funds of unused LIHWAP (Low Income Water Assistance Program) to counties.

HEALTH DEPARTMENT: BUDGET AMENDMENT (BNA #035)

ACTION: Commissioner Whetstine made a motion, seconded by Commissioner Hutchins, 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>
013.660.4.510.78		Employee Wellness/Wellness-Tier 5 Dept	\$182,490.00	
013.660.4.465.00		Employee Wellness/Admin Services Allocation	\$637,000.00	
013.660.5.230.01		Employee Wellness/Prescription Drugs	\$819,490.00	
065.981.4.991.00		Health Plan/Fund Balance Appropriated	\$637,000.00	
065.981.5.890.00		Health Plan/Interfund Transfers	\$637,000.00	

Explanation of Revisions: Budget allocation for \$819,490 in receipt of Tier 5 Drug rebates to cover prescription costs and fund balance to cover future prescription drug costs.

PLANNING DEPARTMENT: REQUEST TO SET A PUBLIC HEARING FOR TUESDAY, FEBRUARY 7, 2023 FOR CASE 22-36 REQUEST TO REZONE MULTIPLE PARCELS AT 105 CHARITY DRIVE FROM RURAL AGRICULTURE (RA) TO RESIDENTIAL (R)

The applicant, Leon Leonhardt is requesting to rezone parcels 35633, 64885, 35629, 35668, and 35621 from Rural Agriculture (RA) to Residential (R). These parcels combined are approximately 100 acres and are located along Charity Rd below Fallston. The surrounding area consists of rural single-family residential homes. The surrounding zoning is Rural Agriculture and the Land Use Plan designates this area as both Rural Preservation and Secondary Growth.

ACTION: Commissioner Whetstine made a motion, seconded by Commissioner Hutchins, and unanimously adopted by the Board to, ***approve setting the public hearing as presented.***

PLANNING DEPARTMENT: REQUEST TO SET A PUBLIC HEARING FOR TUESDAY, FEBRUARY 7, 2023 FOR CASE 23-01 REQUEST TO REZONE PARCEL 59918 AT 863 STONY POINT ROAD FROM GENERAL BUSINESS-CONDITIONAL USE (GB-CU) TO RESIDENTIAL (R)

The applicant, Mark Humphries, is requesting to rezone parcel 59918 which is located at 863 Stony Point Road and is 2.94 acres, from General Business – Conditional Use (GB-CU) to Residential (R). In June 2020, Commissioners approved rezoning this property to General Business – Conditional Use (GB-CU) for the purpose

of RV and boat storage. Mr. Humphries no longer wishes to use the property in this manner and is requesting to rezone the property to Residential (R). The surrounding zoning is Residential (R) in the east and south while the west and north are zoned Restricted Residential (RR). The Land Use Plan calls this area Future Primary Growth.

ACTION: Commissioner Whetstine made a motion, seconded by Commissioner Hutchins, and unanimously adopted by the Board to, *approve setting the public hearing as presented.*

PLANNING DEPARTMENT: REQUEST TO SET A PUBLIC HEARING FOR TUESDAY, FEBRUARY 7, 2023 FOR CASE 22-35 REQUEST TO REZONE PARCELS 10490 AND 10462 AT 708 BATTLEGROUND AVENUE FROM LIGHT INDUSTRIAL (LI) TO RESIDENTIAL – CONDITIONAL USE (R-CU) FOR A MULTI-USE RESIDENTIAL DEVELOPMENT

Tom Crouch, representing Liquid Management LLC, is requesting to rezone Parcels 10462 and 10490 from Light Industrial (LI) to Residential Conditional Use (R-CU) for the purposes of developing the property for multi-family residential. A site plan has been submitted showing how the property is proposed to be developed, including 11 apartment buildings multiple townhome residential units, and an assisted living facility.

Parcels 10490 and 10462 are adjoining and located at 708 Battleground Ave between Grover and Kings Mountain. The property is approximately 60 acres and is currently owned by Cleveland County Government. This area is along Highway 29, a major four-lane corridor, and is surrounded by industrial uses. There is a single-family residence on the property and the Land Use Plan designates this area as Primary Growth which is ideal for the most intensive uses.

ACTION: Commissioner Whetstine made a motion, seconded by Commissioner Hutchins, and unanimously adopted by the Board to, *approve setting the public hearing as presented.*

SHERIFF'S OFFICE: SERVICE WEAPON REMOVAL FOR RETIRING DEPUTY DONALD BARKLEY, JR.

The Cleveland County Sheriff's Office would like to present retired Deputy Donald Barkley, Jr. with his departmental service weapon. Deputy Barkley retired on December 16, 2022 after 27 years of law enforcement service in Cleveland County. The service weapon requested to be removed from county inventory is a Glock 9mm, model 17, serial# BDKT-820. The county asset#201153.

ACTION: Commissioner Whetstine made the motion, seconded by Commissioner Hutchins, and unanimously adopted by the Board, *to approve the request to remove the service weapon from County inventory and issue it to retiring Deputy Donald Barkely, Jr.*

LEGAL DEPARTMENT: SALE OF COUNTY-OWNED PROPERTY FOR PARCEL 70757

Parcel 70757 is a county-owned property located on South Lafayette Street in Shelby. Cleveland County acquired this property through foreclosure proceedings in 1985. This parcel of land has no residual structures and has a tax value of \$416. The offer of \$300, received from Bobby Hunt II, is \$116 below tax value. Staff is requesting approval of the offer made on parcel 70757 and authorizes County staff to advertise and begin the upset bid process.

ACTION: Commissioner Whetstine made a motion, seconded by Commissioner Hutchins, and unanimously approved by the Board to, *adopt the resolution authorizing county staff to advertise and begin the upset bid process for parcel 70757.*



Resolution

01 – 2023

Resolution Authorizing Negotiated Offer and Upset Bid (G.S. 160A-269) Parcel 70757

WHEREAS, Cleveland County owns property identified as follows:

Parcel Number	Location	Offeror
70757	S Lafayette Street	Bobby Hunt II

and

WHEREAS, N.C.G.S. § 153A-176 and N.C.G.S. § 160A-269 permit the County to sell property by upset bid, after receipt of an offer for the property; and

WHEREAS, the County has received an offer to purchase the property described above in the amount as follows:

Parcel Number	Amount Offered
70757	\$300.00

and

WHEREAS, the required five percent (5%) deposit has been received from offeror;

THEREFORE, THE CLEVELAND COUNTY BOARD OF COMMISSIONERS RESOLVES THAT:

1. The Board of Commissioners authorizes sale of the property described above through the upset bid procedure of N.C.G.S. § 160A-269.
2. The County paralegal will notify the offeror(s) of the Commissioners' authorization and the amount required of them for advertising costs to be paid by cash, money order or cashier's check to payable to the County and delivered to the County paralegal at 311 E. Marion Street, Suite 121, Shelby, North Carolina 28150.

3. Following receipt of payment of the advertising cost(s) by the offeror(s), the Clerk to the Board will cause a notice of the proposed sale to be published. (In the event that one or more offeror declines prepayment of the advertising cost, the corresponding property will not be advertised.) The notice will contain a general description of the property, the amount and terms of the offer, and a notice that within ten (10) days any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder or the sum of \$2,100.00 whichever is greater.
4. Persons wishing to upset the offer that has been received shall submit a **sealed bid** with their offer to Christie Wooten, paralegal, Cleveland County Administrative Office Building, 311 E. Marion Street, Suite 121, Shelby, NC, 28150 for hand delivery or PO Box 1210 Shelby, NC 28151 for mail delivery on or before 3:00 p.m. on or before the 10th day following publication of said notice. Use of the mail or any means of delivery is at the bidder's risk and any bids received after the deadline will not be considered. Any bid with conditions or terms will not be accepted or considered. Use of the mail or any means of delivery is at the bidder's risk and any bids received after the deadline will not be considered. Any bid with conditions or terms will not be accepted or considered.
5. At 3:00 p.m. on said date, the County Attorney/Chief Deputy County Attorney will open the bids, if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.
6. If a qualifying higher bid is received, the County Clerk will cause a new notice of upset bid to be published and will continue to do so until a 10-day period has passed without any qualifying upset bid having been received.
7. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid and accompanying One Hundred Twenty-Five Dollars (\$125.00), or higher in the event of an increase, for advertising costs. This amount may be made in cash, money order, or cashier's check.
8. The County will apply the deposit of the final high bidder first to the costs of the bidding process, including but not limited to the cost(s) of advertising the notice(s) of the proposed sale, then the remaining balances to the purchase price at closing, unless the County withdraws the property from sale, at which time the deposit of the final high bidder will be returned. The County will also refund any deposit, excluding costs, made by bidders other than the final high bidder within two (2) weeks of the delivery of the deed to the final high bidder.
9. The terms of the final sale are that:
 - The Board of Commissioners must review and decide whether or not to approve the final high offer before the sale is closed, which it will do within thirty (30)

days after the final upset bid period has passed,

—The buyer must pay with cash, money order, or cashier's check at the time of closing, and


—The County will transfer its interest in the property via quitclaim deed.

10. The County reserves the right to withdraw any property from sale at any time before the final high bid is accepted and the right to reject at any time any bids. In no event shall the costs of advertising any proposed sale or upset bid be returned to an offeror.

Adopted this 17th day of January 2023.


 Kevin Gordon, Chairman
 Cleveland County Board of Commissioners

ATTEST:


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



BROAD RIVER GREENWAY: RECREATIONAL TRAILS PROGRAM GRANT

The Broad River Greenway intends to apply for a Recreational Trails Program grant through the North Carolina Division of Parks and Recreation. These funds will help with projects at the Broad River Greenway including trail renovations.

ACTION: Commissioner Whetstine made a motion, seconded by Commissioner Hutchins, and unanimously approved by the Board to, ***adopt the resolution in support of the Broad River Greenway’s application for a Recreational Trails Program grant.***



ECONOMIC DEVELOPMENT: RESOLUTION IN SUPPORT OF PROJECT ROTARY

Project Rotary is pursuing a Building Reuse Grant to improve the former Shelby ABB Building (4401 E Dixon Blvd) and will need a resolution of support and local match. The local match will be covered by in-kind grant administration). The goal is for the North Carolina Building Reuse grant to be approved to support Project Rotary, which is a new company in Cleveland County that is contemplating a major expansion project. Cleveland County agrees to serve as the local government grant applicant on behalf of Project Rotary and will retain a grant writer to assist the company with all aspects of the North Carolina Building Reuse Grant application process, as well as ongoing reporting requirements, which is valued up to \$20,000.

ACTION: Commissioner Whetstine made a motion, seconded by Commissioner Hutchins, and unanimously approved by the Board to, ***adopt the resolution in support of Project Rotary Building Reuse Grant.***



Resolution

04 – 2023

Resolution in Support of the Project Rotary Building Reuse Grant

WHEREAS, it has been determined by the Board, that **PROJECT ROTARY**, intends to create over the next four (4) years, approximately one hundred thirty-one (131) new, permanent full-time jobs with an annual average wage of Forty-Eight Thousand One Hundred Thirty Dollars (\$48,130);

WHEREAS, **PROJECT ROTARY**, anticipates creating approximately Forty-Four Million Two Hundred Twenty-One Thousand Five Hundred Thirty-Four Dollars (\$44,221,534) in net new investment, which will increase the population, taxable property base and business prospects for the County;

WHEREAS, with the aforementioned expansions, Cleveland County qualifies for the North Carolina Department of Commerce, Rural Economic Development Division, Building Reuse Grant Program in which **PROJECT ROTARY** is eligible to receive up to Five Hundred Thousand Dollars (\$500,000) upon approval of a five percent (5%) grant match;

WHEREAS, the project in the grant application includes the acquisition and improvement of real property and tangible personal property, totaling Forty-Four Million Two Hundred Twenty-One Thousand Five Hundred Thirty-Four Dollars (\$44,221,534);

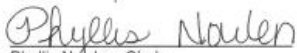
WHEREAS, it is in the public interest to provide assistance as authorized by North Carolina General Statute 158-7.1;

NOW, THEREFORE BE IT RESOLVED, for the reasons recited above that the Cleveland County Board of Commissioners hereby authorizes the County Manager to submit a Building Reuse Program grant application and provide a five percent (5%) grant match to qualify for the Project for the North Carolina Department of Commerce, Rural Economic Development Division, Building Reuse Grant Program.

Adopted this the 17th day of January 2023.

By: 
Kevin Gordon, Chairman
Board of Commissioners of Cleveland County

ATTEST:


Phyllis Naulen, Clerk
Cleveland County Board of Commissioners



COMMISSIONERS: HIGH-QUALITY GOVERNANCE RESOLUTION

The Board of County Commissioners want to ensure a clear policy of high-quality governance and delineation of their roles and responsibilities.

ACTION: Commissioner Whetstine made a motion, seconded by Commissioner Hutchins, and unanimously approved by the Board to, ***adopt the High-Quality Governance resolution.***



Resolution

03 – 2023

High Quality Governance Resolution

WHEREAS the Board of County Commissioners desires to ensure a clear policy of quality governance and delineation of roles and responsibilities, the Board hereby adopts the following

CLEVELAND COUNTY BOARD OF COUNTY COMMISSIONERS OPERATING GUIDELINES FOR HIGH QUALITY GOVERNANCE

The Board commits to using the following guidelines to ensure high quality governance:


1. The County's strategic priorities will guide the work of the Board and staff and will be supported by a thoughtful priority-setting process and cycle.
2. We will honor the expressed will of the majority and respect the concerns of the minority.
3. We will ensure that policy decisions and directions to the County Manager are communicated by the entire Board.
 - a. When this is unclear, the County Manager will seek clarification from the Board.
 - b. No single member of the Board can provide direction on policy implementation to the County Manager, or County staff.
4. Board Members do not want their interactions with and requests to staff members to negatively impact staff productivity.
 - a. Staff members should use judgment and explain the resources that would be required to respond to Board requests.
 - b. If a policy issue is going to affect workload or a policy decision, it should come through the County Manager's office.
5. When a Board Member sends a communication to a staff member it should be copied to the department director and the County Manager. Urgent matters will be clearly labeled in the subject line.
6. We will direct current or former employees with work-related concerns to their respective supervisors or Human Resources.
7. We will direct members of the public with operational concerns to the appropriate County department to address.
8. When a Board member has an urgent matter, we go directly to the County Manager in a timely manner so that it can be addressed.
9. To ensure maximum productivity, the Board should focus on policy-making work and the staff should focus on day-to-day operational work and provide progress reports.

10. We are responsible for the entirety of citizens of the County; therefore, we should give our best efforts to work for the benefit of all.

Adopted this the 17th day of January 2023


Kevin Gordon, Chairman


Ronnie Whetstine, Vice-Chairman


Johnny Hutchins, Commissioner


Doug Bridges, Commissioner


Deb Hardin, Commissioner



COMMISSIONERS: AMENDMENT TO THE 2023 COMMISSIONER MEETING SCHEDULE

A clerical error was found in the 2023 Commissioner Meeting schedule. The second meeting in November will be held on Tuesday, November 21, not November 14th. The amended schedule is included in Board Members' packets.

ACTION: Commissioner Whetstine made the motion, seconded by Commissioner Hutchins, and unanimously approved by the Board to, *approve the amended 2023 Commissioner Regular Meeting Schedule.*

2023 Cleveland County Board of Commissioners Meeting Schedule

January 13 – Work Session
January 17
February 7
March 21
April 4
April 18
May 2
May 16
June 6
June 20
July 11
August 1
September 5
September 19
October 3
October 17
November 7
~~November 14~~ November 21
December 5
December 19

PUBLIC HEARING

PLANNING DEPARTMENT: CASE 22-28; REQUEST TO AMEND THE CLEVELAND COUNTY UNIFIED DEVELOPMENT ORDINANCE FOR THE CREATION OF THE RURAL RESIDENTIAL (RU) ZONING DISTRICT

Chairman Gordon called Planning Director Chris Martin to the podium to present Planning Department Case 22-28: Request to amend the Cleveland County Unified Development Ordinance (UDO) for the creation of the Rural Residential (RU) zoning district. At their fall 2021 work session, the Board of Commissioners gave direction to Planning staff to begin creating language to implement a new rural residential zoning district in the county's UDO. The purpose of the district was to:

- create a new zoning district
- applies to the rural areas of the county
- preserve the rural character
- preserves natural resources
- allow for more homeowner flexibility uses

The approved 2005 and 2021 Land Use Plans recommended the creation of a new zoning district that would give some flexibility of uses to the more rural parts of the county and to preserve the rustic, agricultural and scenic qualities of this area. This district would include residential uses and a few non-residential uses that help preserve

its rural character. Planning staff has worked with the Planning Board to create the proposed new Rural Residential (RU) zoning district. Several highlights of this proposed zoning district include:

- Definitions
 - Rural Residential
 - Private Storage Building
- Lot Standards
 - 1 acre
 - 100ft of road frontage
- Permitted Uses
 - By Right: Residential, Private Storage, Winery, Lawn and Garden, Schools, Parks
 - Special Use: Sawmills, Vet Offices, Kennels, RV Parks (Removes RV Parks from Neighborhood Business)

Sec. 12-121. Zoning districts established.

The following zoning districts are hereby established:

- (a) **RA—Rural Agricultural.** The purpose of this district is to accommodate agricultural and residential uses in the rural areas of the county at a maximum of one (1) dwelling per three (3) acres. Given the very low-density of development, a limited number of nonresidential uses are also allowed in this district, which are not permitted in the other residential zoning districts.
- (b) **RU—Rural Residential.** This district accommodates low-density single family detached dwellings, modular homes, and manufactured homes at a maximum density of one dwelling unit per acre. The district promotes agricultural uses and supporting commercial uses that also help preserve the rural character, and preservation of natural resources and scenic views of the surrounding area.
- (c) **RR—Restricted Residential.** This district is the most restrictive residential, district intended to accommodate low-density single-family detached dwellings and modular homes at a maximum density of two (2) dwelling units per acre.
- (d) **R—Residential.** The purpose of this district is to accommodate low-density single-family detached dwellings, modular homes, manufactured homes at a maximum density of two (2) dwelling units per acre. Multi-family housing is also permitted in this district, but may be exempt from the density requirements depending on location.
- (e) **RM—Residential Manufactured Homes and Parks.** This district accommodates the widest variety of residential uses including low-density single-family detached dwellings, modular homes, manufactured homes and manufactured home parks.
- (f) **NB—Neighborhood Business.** This purpose of this district is to accommodate small, limited retail and service land uses that provide goods and services to surrounding residential neighborhoods. Residential uses are also permitted at a maximum density of two (2) dwelling units per acre. The intent of this district is to encourage the location of convenience retail establishments, professional services, and offices that will be compatible with surrounding residential uses, discourage intensive land uses which require large land area; and limit the location of large traffic generating uses to arterial streets.
- (g) **GB—General Business.** The purpose of this district is to accommodate a wide variety of retail; business, professional, and personal services; office; and limited wholesale and warehousing uses. These uses are generally located on arterial streets with the capacity for additional commercial traffic.
- (h) **CP—Corridor Protection.** This overlay district is designed to promote well-planned, economically viable development that is compatible with and will enhance the visual appeal of the area by avoiding uncoordinated, strip development along arterial streets. It will also support safe and efficient traffic flow through these areas. The district boundaries shall extend along arterial streets, for a distance of five hundred (500) feet from and perpendicular to each side of the highway right-of-way.
- (i) **LI—Light Industrial.** The purpose of this district is to accommodate limited manufacturing, warehousing, wholesaling, and related commercial and service activities which have little or no adverse impact upon adjoining residential, business and industrial properties. Other land uses allowed within this district should be limited to those uses that support light industrial uses.
- (j) **HI—Heavy Industrial.** The purpose of this district is to accommodate a wide range of assembling, fabricating, manufacturing uses, and support retail and service uses. This district is established for the purpose of providing appropriate locations and development regulations for uses that may require special measures to ensure compatibility with adjoining residential or business properties.

Sec. 12-171. Minimum lot size.

(a) Subject to subsections (b) and (c) all lots in the following zoning districts shall meet the following minimum area requirements:

District	Minimum Square Feet
RA	130,680 (3 acres)
RU	43,560 (1 acre)
RR	21,780 (½ acre)
R	21,780 (½ acre)
RM	21,780 (½ acre)
N-B	No Minimum*
G-B	No Minimum*
L-I	No Minimum
H-I	No Minimum

*Except residential uses which require twenty-one thousand seven hundred eighty (21,780) square feet.

R, RM, and RR district lots shall have a minimum width of eighty (80) feet at the building line and twenty-five (25) feet wide at the street right-of-way, and a minimum depth of one hundred fifty (150) feet. The RA district lots shall have a minimum width of one hundred twenty-five (125) feet at the building line and fifty (50) feet wide at the street right-of-way, and a minimum depth of one hundred fifty (150) feet. The RU district shall have a minimum width of one hundred (100) feet at the street right of way.

- (b) Lots in the R, RM, and RR districts and lots in the NB district that are used for residential purposes that are served by both public water and sewer, shall have a minimum usable area of fifteen thousand (15,000) square feet, and the same width standards as above.
- (c) The minimum lot sizes set forth in this section are permissible only if and to the extent that adequate water and sewer facilities are or can be made available to serve every lot in accordance with the provisions of article XII of this chapter.
- (d) All rights-of-way or easements deeded or reserved shall be excluded when determining lot areas.

Sec. 12-173. Building setback requirements.

(a) Subject to section 12-174 and the other provisions of this article, the minimum principal building setback requirements shall be as follows:

From street right-of-way	30 feet
From street right-of-way	50 feet (RA and RU district)
From side property line	10 feet
From rear property line	30 feet
From side property line on corner lot	20 feet
From lot front on arterial	40 feet

Sec. 12-21. Definitions of Basic Terms

Private Storage Building. A building considered as a principal use for the purpose of private non-commercial storage for personal use only. Minimum three (3+) acres required on the parcel where this is to be placed. Please see Section 12-124 for zoning district allowance.

Section 12-124 Table of Uses

	NAICS	RU	RA	RR	R	RM	NB	GB	CP	LI	HI
RESIDENTIAL											
Residential Single-Family	0	Z	Z	Z	Z	Z	Z				
Modular Home	0	Z	Z	Z	Z	Z	Z				
Manufactured Homes	0	Z	Z	Z	Z	Z	Z				
Manufacture Home Parks	0					Z					
Two-Family (Duplex)	0	Z	Z		Z	Z	Z				
Multi-Family Housing	0				Z	Z	Z				
Family Development	0	Z									
Industrial Occupational Housing	0									S	S
Private Storage	0	Z	Z								
AGRICULTURAL											
Crop production	111	Exempt									
Greenhouse, Nursery and Floriculture	1114	Exempt									
Animal Production	112	Exempt									
Forest Nursery and Products	113	Exempt									
Agriculture and Forestry Support Activities	115	Z	Z				Z	Z	Z		
MINING											
Mining and Quarrying	2120										Z
Construction Sand	2123		Z				Z	Z	Z	Z	
Mining Support Activities	2131										Z
UTILITIES											
Electric Power Generation/Distribution	2211						Z	C	Z	Z	
Solar Electric Power Generation	221114								Z	Z	
Natural Gas Distribution	2212						Z		Z	Z	
Water and Sewer Treatment (Major)	2213								S	S	S
Water and Sewer Treatment (Minor)	2213	S	S	S	S	S	S	S	S	S	S
CONSTRUCTION											
Residential Building Construction	23611		Z				Z		Z		
Nonresidential Building Construction	23620		Z				Z		Z		
Heavy and Civil Engineering Construction	23700								Z	Z	
Specialty Trade Contractors	23800		Z				Z		Z		
MANUFACTURING											
Food	31100									Z	Z
Beverage and Tobacco Products	31200									Z	
Winery	31200	Z	Z						Z	Z	
Distillery	31200	S	Z							Z	
Textiles	31300								Z	Z	
Textile Products	31400								Z	Z	
Apparel	31500								Z	Z	
Leather and Allied Products	31600								Z	Z	
Wood Products	32100		S							Z	
Sawmills	321113	S	S							Z	
Paper	32200									Z	

	NAICS	RU	RA	RR	R	RM	NB	GB	CP	LI	HI
Printing and Related Support Activities	32310		Z				Z	Z	Z	Z	Z
Petroleum and Coal Products	32410										Z
Chemical	32500										Z
Plastics and Rubber	32600									Z	Z
Non-metallic Mineral Products	32700										Z
Primary Metals	33100										Z
Fabricated Metal Products	33200								Z	Z	
Machinery	33300										Z
Computer and Electronic Products	33400									Z	Z
Electrical Equipment, Appliances	33500								Z	Z	
Transportation Equipment	33600										Z
Furniture Products	33700									Z	Z
Miscellaneous	33900									S	Z
WHOLESALE TRADE											
Auto Parts	42310									S	S
Furniture and Home Furnishings	42320							Z	Z	Z	
Lumber and Construction Materials	42330								Z	Z	
Professional and Commercial Equipment	42340								Z	Z	
Metal and Mineral	42350										Z
Electrical Goods	42360							Z	Z	Z	
Hardware, Plumbing, Heating Equip.	42370								Z	Z	
Machinery, Equipment and Supplies	42380								Z	Z	
Paper and Paper Products	42410										Z
Drugs and Sundries	42420							Z	Z	Z	
Apparel and Piece Goods	42430							Z	Z	Z	
Grocery	42440							Z	Z	Z	
Farm Products	42450	S	Z					Z	Z	Z	
Chemical and Allied	42460										Z
Petroleum and Related Products	42470										Z
Alcoholic Beverage	42480							Z	Z	Z	
RETAIL TRADE											
Automobile Dealers—New and Used	44110		Z				S	Z	Z	Z	
Recreational Vehicle Dealers	44120		Z				S	Z	Z	Z	
Auto Parts, Tires and Accessories	44130		Z					Z	Z	Z	
Furniture	44210							Z	Z		
Home Furnishings	44220							Z	Z		
Electronics and Appliances	44310							Z	Z	Z	
Building Materials and Supplies	44410							Z	Z	Z	Z
Lawn and Garden Supplies	44420	Z	Z					Z	Z	Z	
Grocery	44510		Z					Z	Z	Z	
Specialty Foods	44520		Z					Z	Z	Z	
Alcoholic Beverages	44530							Z	Z	Z	
Health and Personal Care	44610		Z				S	Z	S	Z	
Convenience Food/Gas	44710		Z				S	Z	Z	Z	Z
Clothing	44810							Z	Z	Z	

	NAICS	RU	RA	RR	R	RM	NB	GB	CP	LI	HI
Jewelry	44830						Z	Z	Z		
Sporting Goods	45110						Z	Z	Z		
Books and Music	45120		Z				Z	Z	Z		
Department Store	45210						Z	Z			
General Merchandise	45290						Z	Z			
Florists	45310		Z				Z	Z	Z		
Office Supplies/Gifts	45320		Z				Z	Z	Z		
Used Merchandise	45330		Z				Z	S			
Other Miscellaneous Retail	45390		Z				Z	Z	Z		
Internet/Mail Order	45410		Z				Z	Z	Z		
Vending Machine Operator	45420						Z	Z			
Fuel Dealer—Oil and Gas	45430						Z	Z	Z	Z	
TRANSPORTATION AND WAREHOUSING											
Airport—Scheduled Air Transport	48110									S	S
Airport—Non-Scheduled Air Transport	48120									S	S
Rail Transportation	48210						Z	Z	Z	Z	
General Freight Trucking	48410						Z		Z	Z	
Specialized Freight Trucking	48420						Z		Z	Z	
Urban Transit System	48510						Z		Z	Z	
Rural Bus Transportation	48520						Z		Z	Z	
Taxi and Limousine Service	48530						Z		Z		
School Bus Transportation	48540						Z		Z		
Charter Bus	48550						Z				
Pipeline—Oil and Gas	48600								Z	Z	
Transportation Support	48800						Z				
Postal Service	49100						Z	Z	Z	Z	Z
Couriers and Messengers	49200						Z		Z	Z	
Warehousing and Storage	49300						Z		Z	Z	
INFORMATION											
Publishing/Information/News	51100						Z	Z		Z	Z
Motion Picture and Video	51210						Z	Z	Z		
Sound Recording	51220						Z	Z	Z		
Radio and TV Broadcasting	51510						Z		Z	Z	
Cable TV Distribution	51520						Z		Z	Z	
Telecommunications	51721						Z	Z	Z	Z	
Amateur Radio Tower	51721	S	S	S	S	S	S	S	S	S	S
Data Centers	518210								Z	Z	
Library	51912	Z	Z		Z	Z	Z	Z	Z		
FINANCE AND INSURANCE											
Central Bank	52100						Z	Z	Z	Z	Z
Credit and Related Activities	52200		Z				Z	Z	Z		
Securities and Commodities	52300						Z	Z	Z		
Insurance and Related Activities	52400						Z	Z	Z		
Funds, Trusts and Other Financial	52500						Z	Z	Z		
REAL ESTATE, RENTAL AND LEASING											

	NAICS	RU	RA	RR	R	RM	NB	GB	CP	LI	HI
Real Estate Agents and Brokers	53120									Z	Z
Property Managers	53130									Z	Z
Auto Rental and Leasing	53210									Z	Z
Consumer Goods Rental	53220									Z	Z
General Rental Centers	53230									Z	Z
Equipment Rental	53240									Z	Z
PROFESSIONAL, SCIENTIFIC AND TECHNICAL SERVICES											
Legal Services	54110									Z	Z
Accounting/Tax Payroll Services	54120									Z	Z
Architectural, Engineering and Related	54130									Z	Z
Specialized Design Services	54140									Z	Z
Computer Systems Design and Related	54150									Z	Z
Consulting Services	54160									Z	Z
Scientific Research and Development	54170									Z	Z
Advertising and Related	54180									Z	Z
Veterinary Office/Clinic/Practice	54194	S	Z							Z	Z
Other Professional/Technical Service	54199		Z							Z	Z
MANAGEMENT OF COMPANIES AND ENTERPRISES											
Management of Companies/Enterprises	55110									Z	Z
ADMINISTRATIVE, SUPPORT, WASTE MANAGEMENT AND REMEDIATION											
Office Administrative Services	56110									Z	Z
Facilities Support Services	56120									Z	Z
Employment Services	56130									Z	Z
Business Support Services	56140									Z	Z
Travel Arrangement and Reservations	56150									Z	Z
Investigation and Security	56160									Z	Z
Services to Buildings and Dwellings	56170									Z	Z
Other Support Services	56190									Z	Z
Waste Collection	56210	S								Z	Z
Waste Treatment and Disposal	56220	S								Z	Z
Remediation	56290	S								Z	Z
EDUCATIONAL SERVICES											
Elementary and Secondary Schools	61110	Z	Z	Z	Z	Z	Z				
College and University	61130									Z	Z
Business School	61140									Z	Z
Technical and Trade	61150	Z								Z	Z
Other Schools and Instruction	61160	S								Z	Z
HEALTH CARE AND SOCIAL ASSISTANCE											
Ambulatory Health Care Services	62100		Z							Z	Z
Hospitals	62200									Z	Z
Nursing Care Facility	62311	S	Z		Z	Z	Z	Z	Z		
Family Care Home	62311	Z	Z	Z	Z	Z	Z				
Residential Mental Health Facility	62320							S	S	S	
Assisted Living Facility	62331	Z		Z	Z	Z					
Group Home	62399	S	S	S	S	S					

	NAICS	RU	RA	RR	R	RM	NB	GB	CP	LI	HI
Child Care Institution	62399				S			S			
Individual and Family Assistance	62410		S				Z	Z	Z		
Food, Housing, Emergency Relief	62420							S	S		
Temporary Dependent Care Facility	62422		S	S	S	S					
Vocational Rehabilitation Service	62431									Z	Z
Child Day Care	62441	Z	Z	Z	Z	Z	Z	Z	Z		
ARTS, ENTERTAINMENT AND RECREATION											
Performing Arts	71110							Z	Z		
Spectator Sports	71121		S				Z	Z	Z	Z	
Racetrack	71121									S	S
Promoter/Agent/Manager	71130							Z			
Museum/Historical Site	71211	Z	Z	Z	Z	Z	Z	Z	Z	Z	
Zoo/Botanical Gardens	71213	S	S	S	S	S	S	S			
Nature Park	71219	Z	Z	Z	Z	Z					
AMUSEMENT, GAMBLING AND RECREATION INDUSTRIES											
Amusement Parks and Arcades	71310							Z	Z		
Gambling and Video Gaming Machine(s)	71320							S			
Golf Course and Country Club	71391	S	S	S	S	S	Z	Z	Z		
Marina	71393	S	S	S	S	S	Z	Z	Z		
Private Airpark	0	S	S	S	S	S	Z	Z	Z	Z	Z
Fitness and Recreational Sport Center	71394						Z	Z	Z	Z	Z
Bowling	71395							Z	Z		
Other Amusement and Recreation	71399		Z	S	S	S	Z	Z	Z	Z	Z
ACCOMMODATION AND FOOD SERVICES											
Hotel/Motel	72111							Z	Z		
Bed and Breakfast Inn	72119	Z	Z	Z	Z	Z	Z	Z	Z		
Recreational Vehicle Parks	72120	S					Z	Z			
Campground w/out RV	72120	S	S		S		Z	Z			
Rooming and Boarding House	72130		Z		Z	Z					
Special Food Services	72230		Z				Z	Z	Z	Z	
Bar/Tavern	72241						S	S	S	S	S
Restaurant	72250		Z				Z	Z	Z	Z	
OTHER SERVICES											
Auto Repair	81110		S				S	Z		Z	Z
Electronic Repair and Maintenance	81120						Z	Z	Z	Z	
Commercial Equipment Repair	81131							Z	Z	Z	
Personal and Household Goods Repair	81141		Z				Z	Z	Z	Z	
Personal Care Service	81210		Z				Z	Z	Z		
Death Care Service	81220		Z				Z	Z	Z		
Dry cleaning and Laundry	81230		Z				Z	Z	Z	Z	
Other Personal Service	81290							Z			
Kennels/Animal Boarding	812910	S	S		S	S	S	Z			
Religious Organizations/Churches	81311	Z	Z	Z	Z	Z	Z	Z	Z		
Grant Making and Giving	81320						Z	Z	Z		
Social Advocacy Organization	81330						Z	Z	Z		

	NAICS	RU	RA	RR	R	RM	NB	GB	CP	LI	HI
Civic and Social Organization	81341		S	S	S	S	Z	Z	Z	Z	Z
PUBLIC ADMINISTRATION											
General Government	92110						Z	Z	Z	Z	Z
Public Safety Facilities	92210	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
Detention Center (County)	92214							Z		Z	Z
Correctional Institution (State and Federal)	92214									Z	Z
Human Resource Programs	92310						Z	Z	Z	Z	Z
Environmental Quality Programs	92410						Z	Z	Z	Z	Z
Housing/Community Development	92510						Z	Z	Z	Z	
Economic Programs	92610						Z	Z	Z	Z	Z

The following information and PowerPoint were presented to the Commissioners.

**Code Amendment
Rural Residential Zoning District**

Cleveland County
NORTH CAROLINA

Chris Martin
JANUARY 17, 2023

Objectives

- New Zoning District
- Rural Areas
- Preserves Rural Character
- Preserves Natural Resources
- Flexibility of Uses

Where?

LAND USE PLAN

Cleveland County
NORTH CAROLINA

Background

- 2005 Land Use Plan – Describes a rural zoning district
- 2007 Proposal – Rural Residential district drafted and approved by Planning Board
- 2021 Land Use Plan – Recommends rural flexibility and preservation of character
- 2021 Fall Work Session – Commissioners give direction to draft ordinance providing expanded uses for rural areas
- January 2022 – October 2022 – Staff and Planning Board develop ordinance
- October 2022 – Planning Board recommends approval
- January 2023 – Board of Commissioners

Highlights

- Definitions
 - Rural Residential
 - Private Storage Building
- Lot Standards
 - 1 acre
 - 100ft of road frontage
- Permitted Uses
 - By Right: Residential, Private Storage, Winery, Lawn and Garden, Schools, Parks
 - Special Use: Sawmills, Vet Offices, Kennels, RV Parks (Removes RV Parks from Neighborhood Business)

Procedure

- Requires Rezoning process
 - Application
 - Public Notice
 - Planning Board
 - Public Hearing

Options

- Approve
- Deny
- Approve with Modification
- No Action with continued review

Questions?

Chairman Gordon opened the floor to the Board for questions and discussion. Commissioners had questions pertaining to lot standards and the permitted uses with required acreage for the proposed Rural Residential (RU) zoning. Mr. Martin explained, if the proposed zoning were to be approved, moving forward, all new subdivision lots must be at least one acre. Any lot created prior to an ordinance adoption will be grandfathered in.

Board members continued their detailed conversation regarding Rural Residential (RU) zoning inquiring about vacant tracts of land, permitting and allowable uses such as storage buildings and rv parks. Mr. Martin explained, the proposed ordinance allows a stand-alone storage facility without a residence on a property that is at least three acres or larger. If the lot size is smaller than three acres, the citizen would also need to have a residence on the property to have a permitted storage shed. Commissioner Hardin inquired how the three-acre minimum lot

size standard was determined. Mr. Martin explained the Rural Agricultural (RA) zoning district has a three-acre minimal lot size. Commissioners continued their discussion regarding the proposed text's lot standards and specifications and current zoning district regulations in areas such Rural Agriculture (RA) and other rural parts of the county. Mr. Martin advised Commissioners that they may make any modifications they deem appropriate to the proposed text ordinance.

Chairman Gordon opened the Public Hearing at 6:40 pm for anyone wanting to speak for or against Planning Department Case 22-28: Request to amend the Cleveland County Unified Development Ordinance for the creation of the Rural Residential (RU) zoning district. (*Legal Notice was published in the Shelby Star on Friday, January 6, 2023 and Friday, January 13, 2023*).

Robert Williams, 814 E. Stagecoach Trl, Fallston – spoke in opposition to the proposed text amendment stating the standards and purposes were not clear and should be reviewed more.

Nannette Leonhart, 2502 Parnell Dr, Shelby - spoke in opposition to the proposed text amendment, echoing Mr. Williams' comments.

Hearing no further comments, Chairman Gordon closed the Public Hearing at 6:45 pm.

Chairman Gordon opened the floor to the Board for comments and questions. Board members continued their in-depth discussion regarding lot sizes, restrictions, standards and permitted uses for the proposed Rural Residential (RU) zoning and what is allowed in existing zoning districts.

ACTION: Commissioner Whetstone made a motion, seconded by Commissioner Hardin, and unanimously approved by the Board to, *continue the public hearing for planning case 22-28 until Tuesday, March 21, 2023 at 6:00pm in the Commissioners' Chambers.*

PLANNING DEPARTMENT CASE 22-29: REQUEST TO AMEND THE CLEVELAND COUNTY UNIFIED DEVELOPMENT ORDINANCE TO CREATE TYPE B RURAL HOME OCCUPATION STANDARDS

Planning Director Chris Martin remained at the podium to present Planning Department case 22-29; request to amend the Cleveland County Unified Development Ordinance (UDO) to create Type B home occupation standards. At their fall 2021 work session, the Board of Commissioners gave direction to Planning Staff to begin creating language to expand the Rural Home Occupation ordinance.

Currently, citizens can apply for a rural home occupation to be conducted in a building on the property in which they live in the Residential (R), Residential Manufactured home and Parks (RM), and Rural Agriculture (RA) districts. The current ordinance has set standards on the number of people who can work in the business, the number of vehicles, and outside storage in the rural home occupation district. The proposed amendment creates a new type of rural home occupation (Type B) that will be allowable only in the Rural Agriculture (RA) and newly proposed Rural Residential (RU) districts. The (Type B) rural home occupation expands the number of vehicles that can be used in conjunction with the business and the number of employees that can work there. (Type B) rural

home occupations can only exist on parcels larger than five (5) acres. The intent is to accommodate larger home-based businesses on lots in rural districts. The Planning Board voted unanimously to recommend the updated rural home occupation standards.

Sec. 12-137 Rural Home Occupations

~~Rural home occupations may be conducted in the R-A, RM, and R districts only.~~ A rural home occupation may take place in the same portion of the dwelling as set forth in section 12-136 of this chapter and/or in one (1) accessory structure on the lot. ~~and~~ **Type A Rural Home Occupations are allowed in the RU, RA, RM and R zoning districts with the issuance of a zoning permit. Type B Rural Home Occupations are allowed in the RU and RA zoning districts with the issuance of a zoning permit. Rural Home Occupations must meet the following specifications:**

A. Type A Rural Home Occupation

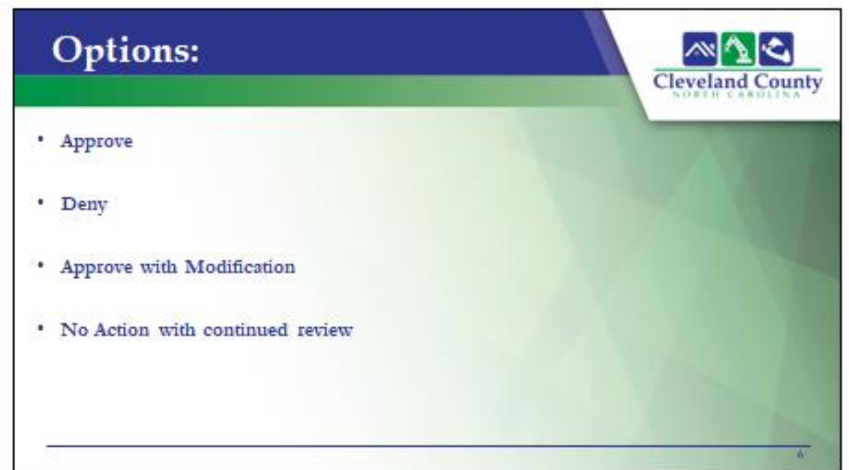
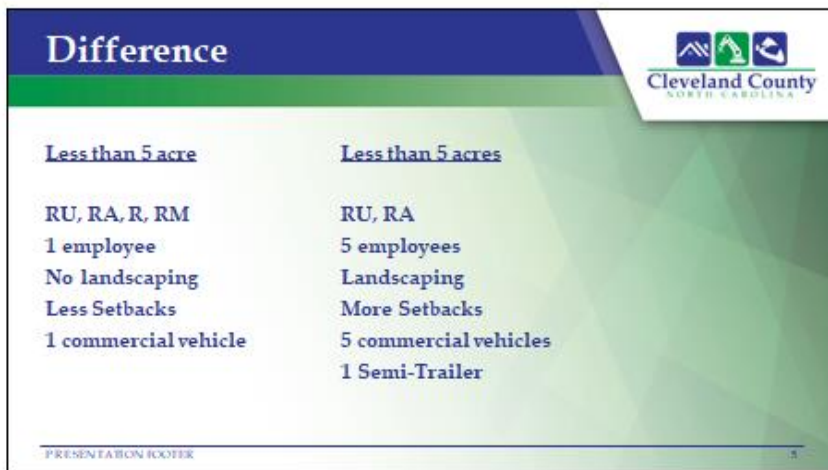
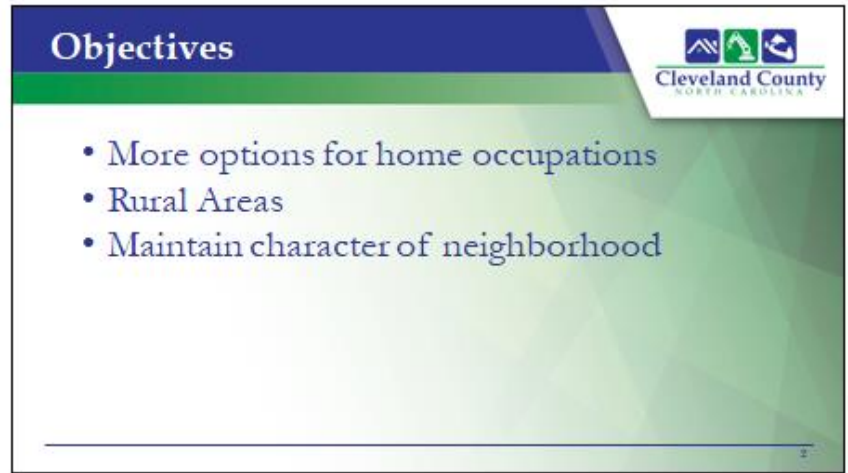
1. ~~(a)~~ Said accessory structure shall be located in the rear yard only and shall also be located at least seventy-five (75) feet from any existing principal residence on any adjacent parcel of land and at least twenty-five (25) feet from any adjoining lot line.
2. ~~(b) Reserved.~~
3. ~~(c)~~ No outside storage of materials or goods shall be permitted.
4. ~~(d)~~ The operator of the rural home occupation must reside on the same lot as where the rural home occupation takes place.
5. ~~(e)~~ No more than one (1) person who does not reside on the premises may be employed at the home occupation.
6. ~~(f)~~ Chemical, mechanical or electrical equipment which creates odors, light emission, noises or interference in radio or television reception detectable without the use of instruments beyond the lot shall be prohibited.
7. ~~(g)~~ No display of products shall be visible from any adjoining street.
8. ~~(h)~~ Rural home occupations may be operated at any time between the hours of 7:00 a.m. and 8:00 p.m.
9. ~~(i)~~ Vehicles used primarily as passenger vehicles may be permitted in connection with the conduct of the rural home occupation. Commercial vehicles may also be used so long as such vehicle does not contain more than two (2) axles nor have a load capacity in excess of one (1) ton.
10. ~~(j)~~ One (1) non-illuminated ground sign advertising the rural home occupation, not to exceed fifteen (15) square feet, may be placed on the property. Said sign shall not exceed four (4) feet in height and shall be located at least ten (10) feet off of any right- of-way. One (1) attached sign advertising the rural home occupation may be permitted as well. Said attached sign shall not exceed one (1) square foot for each lineal foot of building wall facing a street.

B. Type B Rural Home Occupation

1. **Shall only exist on a single parcel that is five (5) acres or more in size.**
2. **Said accessory structure and parking area shall be located in the rear yard only and shall also be located at least 150 feet from any existing principal residence on any adjacent parcel of land and at least 100 feet from any adjoining property line.**
3. **Driveway serving the home occupation shall be located a minimum distance of 100' from all property lines, excluding the road right of way used for access.**
4. **The operator of the rural home occupation must reside on the same lot as where the rural home occupation takes place.**
5. **No more than five (5) persons who do not reside on the premises may be employed at the home occupation.**
6. **Chemical, mechanical or electrical equipment which creates excessive odors, light emission, noises beyond the lot shall be prohibited.**
7. **Type B screening, as outlined in section 12-305, shall be required between the structure and all exterior property lines, unless existing screening is deemed sufficient by the administrator.**
8. **Rural home occupations may be operated at any time between the hours of 7:00 a.m. and 8:00 p.m.**
9. **Up to five (5) two-axle vehicles and two (2) multi-axle semi-trucks owned by the business are allowed.**
10. **One (1) non-illuminated ground sign advertising the rural home occupation, not to exceed fifteen (15) square feet, may be placed on the property. Said sign shall not exceed four (4) feet in height and shall be located at least ten (10) feet off of any right- of-way. One (1) attached sign advertising the rural home occupation may be permitted as well. Said attached sign shall not exceed one (1) square foot for each lineal foot of building wall facing a street.**

C. (Ord. of 9-19-00; Ord. of 10-3-00; Amd. of 6-18-02; Amd. of 2-6-07; Amd. of 4-1-08, § 33)

The following information and PowerPoint were presented to Commissioners.



Chairman Gordon opened the Public Hearing at 7:07 pm for anyone wanting to speak for or against Planning Department case 22-29; request to amend the Cleveland County Unified Development Ordinance (UDO) to create Type B home occupation standards. (*Legal Notice was published in the Shelby Star on Friday, January 6, 2023 and Friday, January 13, 2023*).

Robert Williams, 814 E. Stagecoach Trl, Fallston – spoke in opposition of the Type B UDO amendment advising it should be denied.

Hearing no further comments, Chairman Gordon closed the Public Hearing at 7:10 pm.

ACTION: Commissioner Whetstine made a motion, seconded by Commissioner Bridges, and unanimously approved by the Board to, *continue the public hearing for planning case 22-28 until Tuesday, March 21, 2023 at 6:00pm in the Commissioners' Chambers.*

REGULAR AGENDA

JUSTICE CENTER CMAR CONTRACT

Chairman Gordon recognized Deputy County Attorney Elliot Engstrom to present the Justice Center Construction Manager At Risk (CMAR) contract. The Board was reminded, on May 2, 2022, they selected Yates-Metcon as the CMAR for the Justice Center project. On May 11, 2022, county staff began the process of negotiating with the company to reach the contract terms and conditions for construction of the Justice Center campus at a fair and reasonable fee. Staff continues to put in hard work and the due diligence for this project. The proposed CMAR contract is not a committal to any buildings or costs. The contract for consideration is the outline and commitments between both parties moving forward with this project.

Some of the primary contract documents include a limited preconstruction services agreement, guaranteed maximum price amendment, insurance, bonds and general conditions for construction. Mr. Engstrom reviewed both the county and CMAR's responsibilities to include:

- CMAR's Responsibilities
 - Preliminary evaluation of project
 - Advise and consult on materials, systems, equipment, constructability
 - Prepare and update project schedule and cost estimates
 - Bid out work to subcontractors
 - Propose a Guaranteed Maximum Price (GMP)
 - Inspection and quality review
- County's Responsibilities
 - Provide needed information promptly.
 - Fulfill financial obligations.
 - Establish and update project budget.
 - Retain architect.
 - Make payments within 30 days after receiving an application for payment.

Other sections of the contract reviewed included CMAR's fees. During the preconstruction phase, this will be a flat fee of \$1,248,017.00 to be billed monthly over a period of 14 months. During the construction phase, CMAR's fee will be 4.5% of the cost of the work. Costs of the work are things such as material costs, labor, salaries supplies, etc. The project cost cannot exceed the GMP. The GMP has not been set yet to date but is anticipated to be determined in August or September of 2023.

Monies in the contingency fund will used to cover costs that are "otherwise considered reimbursable as a cost of the work but not included in an owner's change order." The use of contingency must be documented. Some of the allowable uses for contingency include scheduling/coordination problems and scope gaps in bidding. Other sections of the CMAR contract that were reviewed included retainage, insurance, bonds, requirements and dispute resolutions. The following information and PowerPoint were presented to the Commissioners.

Cleveland County
NORTH CAROLINA

JANUARY 17, 2023

CMAR Contract Update

ELLIOT ENGSTROM, DEPUTY COUNTY ATTORNEY

Cleveland County
NORTH CAROLINA

Background

- On May 2, 2022, the Board of Commissioners selected Yates-Metcon as the Construction Manager-at-Risk for the Cleveland County Justice Center project.
- On May 11, 2022, county staff began the process of negotiating a contract for Yates-Metcon's services at a fair and reasonable fee.
- Contract is largely terms and conditions, not yet a set amount.

CMAR CONTRACT UPDATE 2

Cleveland County
NORTH CAROLINA

Contract Team

Elliot Engstrom, Deputy County Attorney
 Martha Thompson, Chief Deputy County Attorney
 Russell Witham, Partner, Parker Poe Adams & Bernstein
 Heather Bennett, Corporate Counsel, Yates Construction
 Jeff Cross, Vice President, Yates Construction
 Russell Partin, Senior Vice President, Metcon US

CMAR CONTRACT UPDATE 3

Cleveland County
NORTH CAROLINA

Primary Contract Documents

- Limited Preconstruction Services Agreement
- A133 (31 pages)
 - Contract for use when CMAR also provides construction services
- A133 Exhibit A (5 pages, plus attachments)
 - Guaranteed Maximum Price Amendment
- A133 Exhibit B (8 pages)
 - Insurance and Bonds
- A201 (53 pages)
 - General Conditions of the Contract for Construction

CMAR CONTRACT UPDATE 4

Cleveland County
NORTH CAROLINA

Responsibilities to each other

CMAR's Responsibilities

- Preliminary evaluation of project
- Advise and consult on materials, systems, equipment, constructability
- Prepare and update project schedule and cost estimates
- Bid out work to subcontractors
- Propose a GMP
- Inspection and quality review

County's Responsibilities

- Provide needed information promptly.
- Fulfill financial obligations.
- Establish and update project budget.
- Retain architect.
- Make payments within 30 days after receiving an application for payment.

CMAR CONTRACT UPDATE 5

Cleveland County
NORTH CAROLINA

The Big Picture

Time: Milestones, Delays, Schedule
 Money: Labor, Materials, Insurance

CMAR CONTRACT UPDATE 6

Cleveland County
NORTH CAROLINA

CMAR's Fee

Preconstruction Phase	Construction Phase
Flat fee of \$1,248,017.00	CMAR's Fee: 4.5% of costs of work
Billed monthly over 14 months	25% of leftover contingency fund
	BUT project cost cannot exceed guaranteed maximum price

CMAR CONTRACT UPDATE 7

Cleveland County
NORTH CAROLINA

CMAR's Fee

Preconstruction Phase	Construction Phase
Flat fee of \$1,248,017.00	CMAR's Fee: 4.5% of costs of work
Billed monthly over 14 months	25% of leftover contingency fund
	BUT project cost cannot exceed guaranteed maximum price

CMAR CONTRACT UPDATE 8

Cleveland County
NORTH CAROLINA

Costs of the Work

Labor, salaries, and wages
 Insurance and bonds
 Payments to subcontractors
 Meals (but no alcohol)
 Lost deposits
 Safety equipment, supplies, seminars

CMAR CONTRACT UPDATE 9

Cleveland County
NORTH CAROLINA

Costs of the Work

Expenses of CMAR's principal office
 Bonuses and profit sharing to CMAR personnel
 Salaries/costs of CMAR personnel stationed anywhere other than site
 Fines other than those due to acts or omissions of County
 Costs related to negotiation of agreement

CMAR CONTRACT UPDATE 10

Cleveland County
NORTH CAROLINA

Lump Sum General Conditions/Requirements

5-7% of total contract

Lump sum allows auditor to put additional focus on auditing rest of project and auditing for allowable costs.

Auditor still audits rates being charged for various positions or equipment.

Majority of project still fluid audit.

Auditor priorities: predictability, precision, more oversight over CMAR, CMAA retained in lower cost/down

CMAR CONTRACT UPDATE 11

Cleveland County
NORTH CAROLINA

Guaranteed Maximum Price

- Contract sum shall not exceed Guaranteed Maximum Price
- GMP has not yet been set (possibly in August or September)
- Examples of changes to GMP:
 - Decrease - CMAR saves money after buying out all subcontractors
 - Increase - The County delays the project, resulting in increased costs
 - Increase or decrease - changes in the work

CMAR CONTRACT UPDATE 12

Contingency Fund



- Used to cover costs that are "otherwise considered reimbursable as a cost of the work but not included in an owner's change order."
- Contingency use must be documented
- Use of contingency does not increase GMP
- Proper uses:
 - Scheduling/coordination problems
 - Scope gaps in bidding
- At conclusion, split 75-25 between the County and the CMAR

Retainage



- County will withhold five percent of each payment made prior to substantial completion.
- However, general conditions, general requirements, insurance, and bonds are not subject to retainage
 - Rationale - CMAR needs these things immediately to be able to build the project

Substantial Completion Date



- Contract will set a date by which substantial completion must be complete
- If substantial completion date not met, and no extension allowed for contract time, CMAR must pay liquidated damages of \$5,000/day.

Substantial Completion



Substantial completion: "The stage in the progress of the work when the work or designated portion thereof is sufficiently complete in accordance with the contract documents so that the Owner can occupy or utilize the Work for its intended use."

Final payment not made until substantial completion.

Article 15



- Claims for additional time
- Claims for additional cost

Article 15



Article 15



- Owner impact: act or failure to act by Owner (County) constituting a breach of the owner's obligations
- If there is an owner impact, the contract may be extended AND the sum increased
- If no owner impact, CMAR's sole recourse is extension of time

Insurance and bonds



- County had option of obtaining insurance for project
- Opted to have Yates-Metcon obtain insurance
- Yates-Metcon is better positioned to get a favorable rate

Analysis: Could County secure insurance for less than 100.045% of what YM could? Likely not.

Dispute Resolution



- Parties can ask architect to be initial decisionmaker regarding dispute
- Parties also have option of litigating disputes in Cleveland County Superior Court
- Mediation mandatory before litigation
- No arbitration

Open Items



- Weather days
- Design and construction milestones

Questions?



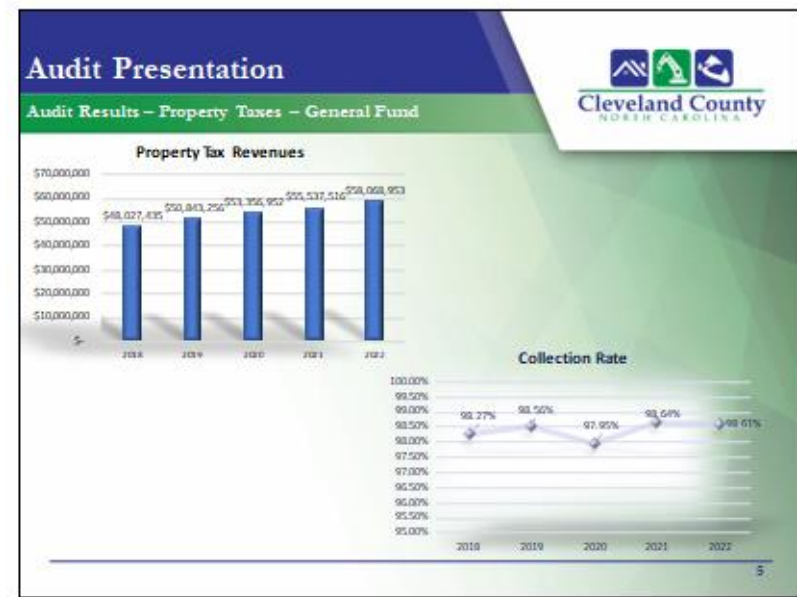
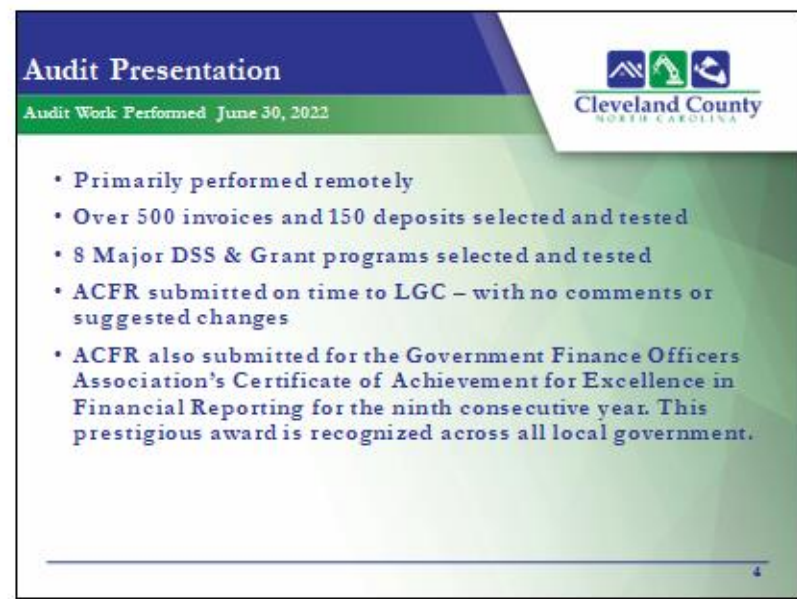
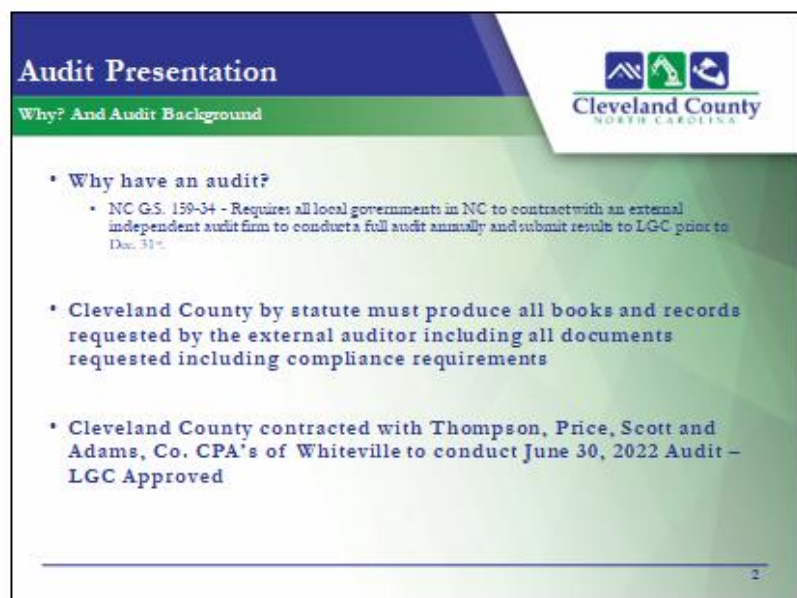
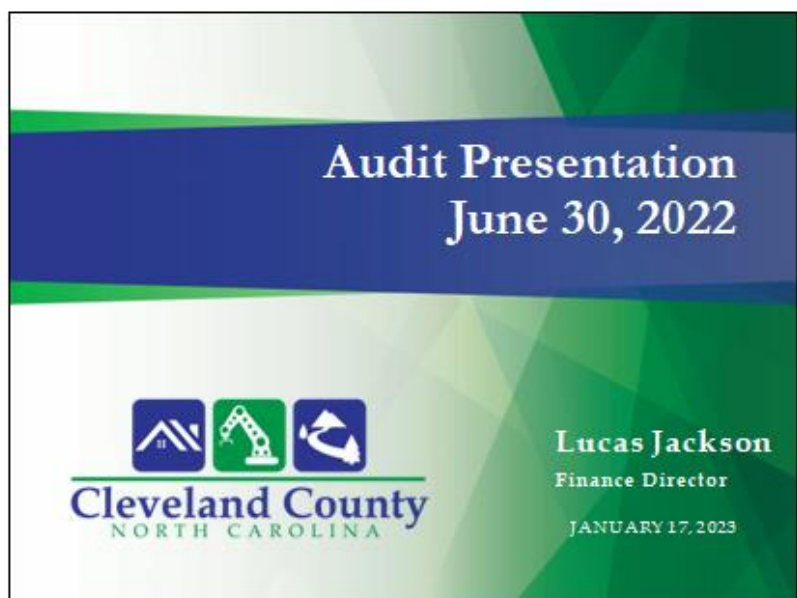
Action:

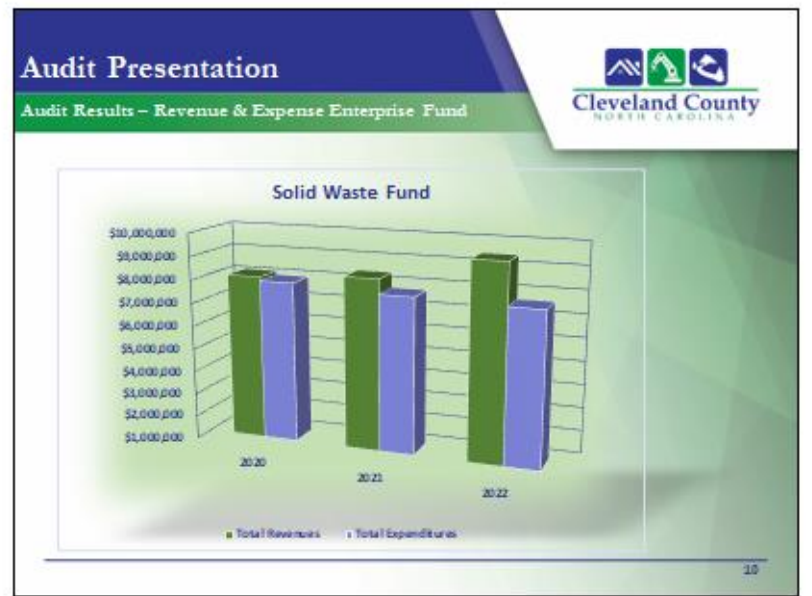
Authorize staff to finalize open items and execute the contract.

ACTION: Commissioner Bridges made a motion, seconded by Commissioner Whetstine, and unanimously approved by the Board to, *authorize staff to finalize open items and execute the contract.* (a full copy of the contract is on file in the Clerk's Office and Legal Department).

2022 AUDIT PRESENTATION

Chairman Gordon called Finance Director Lucas Jackson to the podium for the 2022 Audit Presentation. North Carolina General Statute §159-34 requires all local governments in North Carolina to contract with an external independent audit firm to conduct a full audit annually and submit results to the Local Government Commission prior to December 31st. Cleveland County, by statute, must produce all books and records requested by the external auditor. The county contracted with Thompson, Price, Scott and Adams, Co. CPAs to conduct the audit. The Comprehensive Annual Financial Report (CAFR) was submitted on time to the Local Government Commission with no comments or suggested changes. The following information and PowerPoint were presented to the Board.





Audit Presentation

QUESTIONS??

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Following his presentation, Mr. Jackson called on Alan Thompson from Thompson, Price, Scott, Adams & Co. Audit Firm, to review the Letter to Governance. Mr. Thompson stated, Cleveland County has received an unmodified report with no significant audit findings. He praised the Finance staff, stating they are very qualified and were extremely helpful during the audit process. He explained that minor findings were discussed with management recently. Mr. Thompson reviewed the following information to the Commissioners.



Thompson, Price, Scott, Adams & Co., P.A.

P.O. Box 398
1626 S Madison Street
Whiteville, NC 28472
Telephone (910) 642-2109
Fax (910) 642-5958
Alan W. Thompson, CPA
R. Bryon Scott, CPA
Gregory S. Adams, CPA

November 20, 2022

To the Board of Commissioners
Cleveland County
Shelby, North Carolina

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of Cleveland County for the year ended June 30, 2022. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards, *Government Auditing Standards*, and the Uniform Guidance, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated April 20, 2022. Professional standards also required that we communicate to you the following information related to our audit.

Significant Audit Findings

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by Cleveland County are described in Note 1 to the financial statements. The County adopted GASB Statement 87, "Leases", effective for fiscal year ending June 30, 2022. We noted no transactions entered into by the Cleveland County during the year that were both significant and unusual, and of which, under professional standards, we are required to inform you, or transactions for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. There were no significant estimate(s) or assumptions noted during the audit.

The disclosures in the financial statements are neutral, consistent, and clear. Certain financial statement disclosures are particularly sensitive because of their significance to the financial statement users. There are no such disclosures identified.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

Members
American Institute of CPAs - N.C. Association of CPAs - AICPA Division of Firms

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Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements. In addition, none of the misstatements detected as a result of audit procedures and corrected by management were material, either individually or in the aggregate, to each opinion unit's financial statements taken as a whole.

Disagreements with Management

For purposes of this letter, professional standards define a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representation

We have requested certain representations from management that are included in the management representation letter dated November 20, 2022.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the governmental unit's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Auditing Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as Cleveland County's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

The County did not adopt a budget for the Representative Payee Fund and the Fines and Forfeitures fund for the year ended June 30, 2022. These were two new special revenue funds established in the prior year as a result of the implementation of GASB 84. Refer to finding 2022-01 in the Schedule of Findings and Questioned Cost for additional information on this finding. In addition, there were audit findings related to Medicaid which are also discussed in the Schedule of Findings and Questioned Cost.

The County has issued a significant number of P-cards to employees. Although this seems like a convenient way to conduct business, there are increased risks associated with the use of P-cards (i.e. personal use, etc). Based on our review, the finance staff spends a significant amount of time each month reconciling the P-card transactions. The County should consider if the savings generated by the use of P-cards outweigh the risk and the amount of time spent by finance each month to reconcile these transactions. There were selections we reviewed as part of our testing that did not have itemized receipts or invoices, but only packing slips related to P-cards.

The Local Government Commission (LGC) will no longer initiate communications about concerns or findings (formerly considered unit letters). They have created a spreadsheet that has to be completed and submitted with the audit report. If that worksheet identifies what they consider a "Financial Performance Indicators of Concern" (FPICs), we are required to communicate those items to the Board. The County is required to submit a response within 60 days of the Board meeting in which the financial statements are presented. The detailed audit response should be presented to the entire Board, and signed by the entire Board, Finance Officer, and Manager. We are pleased to disclose that there were no indicators identified on their spreadsheet that you are required to address. The County has one item to

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address with the LGC concerning finding 2022-01 discussed above and in the Schedule of Findings and Questioned Costs in the audit report.

Other Matters

We applied certain limited procedures to the Schedule of County's Proportionate Share of Net Pension Liability (LGERS), Schedule of County Contributions (LGERS), Schedule of County's Proportionate Share of Net Pension Asset (ROD), Schedule of County Contributions (ROD), Schedule of Changes in Total Pension Liability - Law Enforcement Officer's Special Separation Allowance, and Schedule of Changes in Total OPEB Liability and Related Ratios, which is required supplementary information (RSI) that supplements the basic financial statements. Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the RSI and do not express an opinion or provide any assurance on the RSI.

We were engaged to report on the combining and individual non-major fund statement schedules, budgetary schedules, and other schedules, and the schedule of expenditures of federal and State awards, which accompany the financial statements but are not RSI. With respect to this supplementary information, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with accounting principles generally accepted in the United States of America, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.

We were not engaged to report on the Introductory Information on the Statistical Tables which accompany the financial statements but are not RSI. Such information has not been subjected to the auditing procedures applied in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

Restriction on Use

This information is intended solely for the use of the Board of Commissioners and management of Cleveland County and is not intended to be and should not be used by anyone other than these specified parties.

Very truly yours,
Thompson, Price, Scott, Adams & Co., P.A.
Thompson, Price, Scott, Adams & Co., P.A.

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Chairman Gordon opened the floor to the Board for questions and discussion. Commissioners thanked Mr. Jackson and his staff for their continued hard work and due diligence. They also thanked Mr. Thompson and his staff for the information presented and the kind words about county staff. *(A full copy of the 2022 Audit Report and Presentation of Audit Results are on file in the Clerk's Office and the Finance Department).*

BOARD APPOINTMENTS

CLEVELAND COUNTY BOARD OF ADJUSTMENT

ACTION: Commissioner Hardin made the motion, seconded by Commissioner Whetstine, and unanimously adopted by the Board, *to appoint Leon Martin and Thomas Brooks, Jr to serve as members and to appoint Bobby Watson and Doug Lawing to serve as alternate members of this board*, for a three-year term, scheduled to conclude on December 31, 2025.

CLEVELAND COUNTY NURSING HOME ADVISORY COMMITTEE

ACTION: Commissioner Whetstine made the motion, seconded by Commissioner Hutchins, and unanimously adopted by the Board, *to re-appoint Ginger Poteat to serve as a member of this board* for a three-year term, scheduled to conclude on December 31, 2025.

CLEVELAND COUNTY PLANNING BOARD

ACTION: Commissioner Bridges made the motion, seconded by Commissioner Hutchins, and unanimously adopted by the Board, *to reappoint Eddie Kee and Dobbin Lattimore and appoint Clinton Cook and John Caldwell to serve as members of this board*, for a three-year term, scheduled to conclude on December 31, 2025.

ADJOURN

There being no further business to come before the Board at this time, Commissioner Hardin made a motion, seconded by Commissioner Whetstine and unanimously adopted by the Board, *to adjourn*. The next meeting of the Commission is scheduled for *Tuesday, February 7, 2023* in the Commissioners' Chambers.

*Kevin Gordon, Chairman
Cleveland County Board of Commissioners*

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