

Cleveland County Board of Commissioners
August 7, 2018

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: Eddie Holbrook, Chairman
Susan Allen, Vice-Chair
Johnny Hutchins, Commissioner
Ronnie Whetstine, Commissioner
Doug Bridges, Commissioner
Brian Epley, County Manager
Elliot Engstrom, Senior Staff Attorney
Phyllis Nowlen, Clerk to the Board
Kerrie Melton, Assistant County Manager
Allison Mauney, Human Resources Director
Chris Green, Tax Administrator
Perry Davis, Emergency Management Director/Fire Marshall
Lorie Poston, E-911 Communications Director
Betsy Harnage, Register of Deeds

CALL TO ORDER

Chairman Holbrook called the meeting to order, provided the invocation and led the audience in the Pledge of Allegiance.

AGENDA ADOPTION

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

SPECIAL PRESENTATION

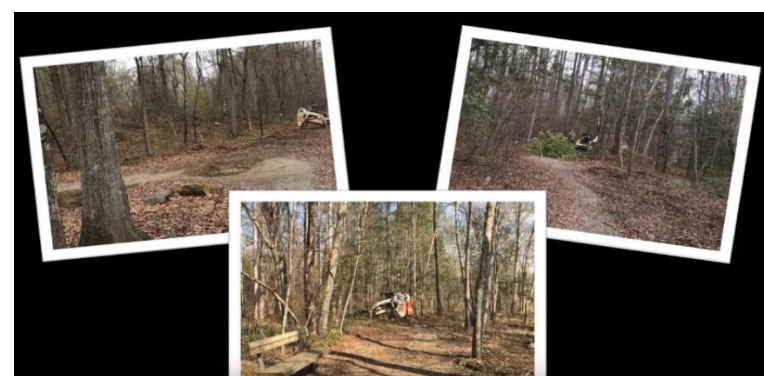
Youth Voice and Youth Leadership Initiatives: Chairman Holbrook recognized Charlie Godfrey, Extension Agent and the 4-H Youth Development Coordinator for Cleveland County. Mr. Godfrey stated they have an opportunity to send one of the 4-H participants to the Youth Voice and Leadership session which will be held at the North Carolina Association of County Commissioners (NCACC) conference on August 23 – 25, 2018. He called 4-H member, Nicholas Spencer to the podium to speak about his experience in 4-H. Mr. Spencer is 13 years old and has been an active participant of 4-H for the past two years. He is a member of the Sure Shot Shooting Sports Club for Cleveland County, the Mini Gardening & Poultry Club and has participated in several other activities on the county and state level. Mr. Spencer thanked the Board for their continuous support of 4-H and other youth programs throughout the County.

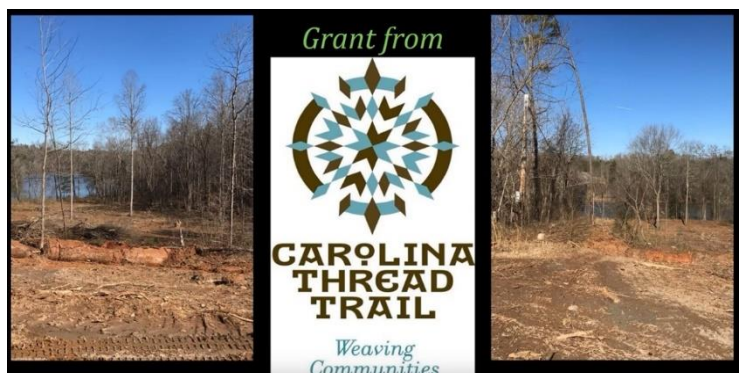
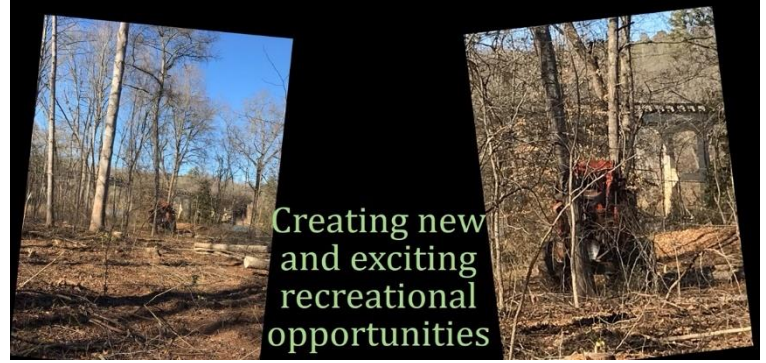
Chairman Holbrook called Keeynan Pharr, Teen Director of the Boys & Girls Club to the podium. Last year the Boys & Girls Club took two participants to the Youth Voice and Leadership Initiative. This year they are able to take three teens. One of the topics at the summit is mental health and the importance of recognizing signs, speaking up and reaching out to those who need help. Mr. Pharr introduced the Boys & Girls Club youth representatives for Cleveland County who will be attending the NCACC conference.

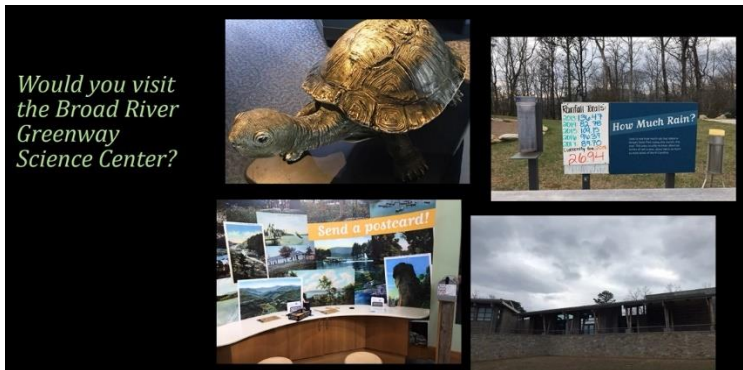
- Keshawn Robinson will be a junior in the fall and enjoys playing basketball, soccer, football and likes math.
- Damajae Rhodes is 14-years old and will be a Freshman when the school year starts. He likes playing basketball and math.
- Antonio Harrison will also be a Junior in the fall and enjoys playing basketball, hanging out with his friends and math.

Antonio Harrison spoke while at the Boys & Girls Club we have learned skills such as leadership and team building. He concluded by thanking the Board for the opportunity to speak and for the teens to be the representatives at the upcoming NCACC conference.

Broad River Greenway Update: Chairman Holbrook called Jason Hamrick, Greenway Chairman, to the podium to present the Broad River Greenway update. The Greenway has been open for over 25 years and during that time, the footprint has nearly tripled in size and has had over two million visitors. They have added a new and bigger picnic shelter to accommodate larger groups. The newest project underway is the Paddler's Access located at the south side of the river. This will allow for much needed areas for paddlers to access the river. This project was mostly funded by a grant received from the Carolina Thread Trail which is a large supporter of the Greenway. A nature center is also in the beginning stages of planning. Staff at the Greenway have recently completed and submitted a grant to Duke Energy which, if approved, will help fund future improvements. Mr. Hamrick closed by thanking the Board for their continued support which contributes to the continuing success of the Broad River Greenway.







Historic Shelby Foundation: Chairman Holbrook asked Betsy Harnage, Register of Deeds, to come forward and speak about the preservation grant received from the Historic Shelby Foundation. Mrs. Harnage stated many of the record books are in disrepair due to age and the amount of use they receive. Preservation involves taking each book apart, cleaning, repairing and scanning the pages before they are put in archival sleeves & binders. The Register of Deeds Office has begun the preservation process but it is very costly. She reached out to the History Shelby Foundation in April and they responded with a very generous grant. Mrs. Harnage thanked Patrick McMurry, President, Ted Alexander and all of History Shelby Foundation for allowing the preservation of Deed Book 3S.

CITIZEN RECOGNITION

Julie Waseman, Mountainside Drive, Kings Mountain – spoke about the County’s road paving assessment policy. Mrs. Waseman initially learned about the policy in April 2018 from Dan Gurly, a transportation policy advisor for Speaker of the House Tim Moore. Mrs. Waseman then spoke with County Manager Brian Epley who advised the policy requires 75% of the abutting property owners to sign the petition in order to qualify for the road paving assessment. She advised Mr. Epley that contact had already been made with a NCDOT representative and six reasonable bids had been received. These bids were in accordance with NCDOT’s regulations and specifications so that Mountainside Drive could be added to the State’s system. For several months after that, Mrs. Waseman had been in contact with the Planning Department. She received the road paving petition and policy on July 18, 2018. The current policy states 75% of the abutting property owners must sign the petition for the road improvement per N.C.G.S 153-205 and North Carolina Administrative Code SR-19. The policy on the agenda for this evening would require 85% of the property owners abutting the road to sign the petition for the County to finance the cost of the road improvement. Mrs. Waseman asked for consideration to grandfather in the Mountainside Drive Petition to require only 75% participation.

Chairman Holbrook thanked Mrs. Waseman for her due diligence and thoroughness concerning this matter.

He confirmed that the Mountainside Drive Road Paving Assessment Policy would be grandfathered in.

CONSENT AGENDA

APPROVAL OF MINUTES

The Clerk to the Board included the Minutes of the *July 17, 2018 regular meetings*, in Board Members packets.

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

MANAGER’S MONTHLY REPORT

Manager’s Report August 7, 2018

**Cleveland County, North Carolina
Monthly Financials &
Manager’s Report**

EXECUTIVE SUMMARY

Finance:

- The County earned approx. \$700,000 in Investment Income for the year- ended June 30, 2018. This is compared to \$485,000 earned year-ended June 30, 2017.
- EMS Belwood Station – The new modular unit has been completed and is ready for delivery the week of August 13, 2018. Work will begin in the coming weeks to complete the setup and installation of the unit along with the site preparation.
- The ERP-Keystone conversion and implementation process has been a tremendous success thus far. The County Central Finance Department, DSS Finance, and Health Department Finance officially went live July 1, 2018. The County HR and Payroll departments will go live August 15th, with the first Payroll run. This is the first major County-wide software update since 1989.
- The County’s new audit firm, Thompson, Price, Scott and Adams, Co. completed interim and preliminary work on-site the week of June 4, 2018. Extensive work was performed both in Finance and at DSS. Internal Controls, Cash Receipts and Disbursements were testing along with all major programs for the June 30, 2018 audit. This marks the first change in audit firms since 2004.
- See attached for lateral and departmental line item transfers between 5/26/18 – 6/30/18:

County of Cleveland, North Carolina
Manager’s Budget Summary
Presented at the 7/17/2018 Board Meeting
Time Period Covered : 5/29/18 to 6/30/18
For Fiscal Year Ending June 30, 2018

DEPARTMENTAL LINE ITEM TRANSFERS FOR DEPT

DBLIT #	DATE SUBMITTED BY DEPT	DEPT NAME	EXPLANATION	BUDGET AMOUNT
47308	5/29/2018	SW Landfill	Move funds to cvr disposal tv tubes	\$ 100,000
48005	5/29/2018	LeGrand Center	Move funds to cvr purch foliage plants & planters and cover contracted labor	\$ 4,266
49509	5/29/2018	Cooperative Extension	Move funds cvr presentation winners day trip to Congress	\$ 384
54505	5/29/2018	Health/Nurse Family Partnership	Move funds to purchase promotional items	\$ 2,825
44503	5/30/2018	Emergency Management	Move funds cvr travel/training and addl fds needed to cover drone purchase (EMPG Grant paid for part of drone)	\$ 10,170
44403	5/30/2018	Detention Center	Move funds to cover capital/controlled eq, rentals, licenses' and uninsured settlements	\$ 3,558
47401	5/31/2018	SW Manned Sites	Move funds needed to purchase 2 octagon 40 yd containers	\$ 2,773
54004	5/31/2018	Health/WIC	Move funds needed for required travel/training	\$ 600
49510	5/31/2018	Cooperative Extension	Move funds cover GRG Youth Teen Retreat	\$ 75
44607	5/31/2018	EMS	Move funds cover purchase of base supplies for new M12	\$ 5,470
44002	5/31/2018	School Resource	Move funds cvr dept supplies	\$ 1,500
44101	5/31/2018	Sheriff Dept	Move funds to cover tablet purchase	\$ 1,100
44404	5/31/2018	Detention Center	Move funds to cover printer purchase	\$ 1,325
53302	6/1/2018	Adult Health	Move funds to cover contracted labor/reg salaries/wages	\$ 5,162
54707	6/1/2018	Health-PCM/CC4C	Move funds to cover travel/training	\$ 710
49511	6/1/2018	Cooperative Extension	Move funds cvr GRG Youth to Millstone 4H Summer Camp	\$ 630
41805	6/5/2018	Board of Elections	Move funds to cover catering for 5/8/18 board meeting	\$ 20
61105	5/24/2018	Library	Move funds from Capital Equipment to Departmental Supply to pay for software bought with Edge Grant Monies.	\$ 1,819
98102	6/6/2018	Health Fund	Move funds to cover HSA contributions; refunds to employees for completed YMCA 12 week weight loss program	\$ 1,184
65002	6/6/2018	Workers Comp	Move funds to cover ach service fee, insurance audit premiums	\$ 2,757
65104	6/6/2018	Property/Liability	Move funds to cover Earl Scruggs arts ins fee	\$ 250
44504	6/7/2018	Emergency Management	Move funds to cover purchase of drawer unit for Chevy Tahoe	\$ 2,420
41602	6/8/2018	Legal	Move funds to cover increased legal services	\$ 15,660
42802	6/8/2018	Municipal Elections	Move funds cvr prof servs and inc ballot exps	\$ 5,024
44608	6/8/2018	EMS	Move funds cvr sofa purchase for base	\$ 468
41502	6/7/2018	Tax Admin	Move funds cvr maint contracts equip and license fees increases	\$ 2,414
47002	6/8/2018	Shooting Range	Move funds cvr steel targets and accts thru EOY	\$ 10,216
53101	6/11/2018	Health/Aids	Move funds cvr dept supplies and salary/fringes thru EOY	\$ 443
53202	6/11/2018	Health/STD	Move funds cvr salanes/fringes, educational trng and prof servs thru EOY	\$ 6,815

53303	6/11/2018	Adult Health	Move funds cvr hospital insurance	\$ 8,820
53402	6/11/2018	School Health	Move funds cvr salaries	\$ 6,800
53502	6/11/2018	Health Promotions	Move funds cvr prof servs and salaries/fringes	\$ 1,708
53602	6/11/2018	Adolescent Pregnancy Prevention	Move funds cvr salaries/fringes	\$ 2,256
53702	6/13/2018	Child Health	Move funds cover contracted services	\$ 80
54203	6/13/2018	Animal Control	Move funds cover various exp accounts thru EOY	\$ 18,112
54708	6/19/2018	Health-PCM/CC4C	Transfer CC4C/CPCM funds cvr travel/training not covered on BTD54707	\$ 358
54506	6/19/2018	Health-Nurse Family Partnership	Transfer funds cover promotional items purchased	\$ 405
54301	6/19/2018	Health/Grants	Transfer funds cover salary/fringes	\$ 2,206
54204	6/19/2018	Health Rabies Control	Transfer funds cover eq-major rprs, prof servs; advertising, dept supply	\$ 4,747
53802	6/19/2018	Health-Maternal Health	Transfer funds cover professional servs; awards/appreciation	\$ 174
53603	6/19/2018	Health-Adol Preg Prev	Transfer funds cover travel/training	\$ 70
53304	6/19/2018	Health-Adult Health	Transfer funds cover contracted labor	\$ 1,000
53403	6/19/2018	Health-School Health	Transfer funds cover dept supply	\$ 40
53203	6/19/2018	Health/STD	Transfer funds cover med/supplies; prof servs	\$ 62
53902	6/19/2018	Health/Family Planning	Transfer funds cover salary/fringes; contracted servs; educ trng; lab supplies	\$ 7,514
54401	6/19/2018	Health/Dental	Transfer funds cover salary/fringes; dept supplies	\$ 2,524
54205	6/20/2018	Health/Rabies Control	Transfer funds cover intercom system	\$ 630
54709	6/20/2018	Health/PCM/CC4C	Transfer funds cover travel/training	\$ 230
54710	6/21/2018	Health/PCM/CC4C	Transfer funds cover travel/training	\$ 600
41102	6/21/2018	Commissioners	Cover operational accounts thru EOY	\$ 16,284
54507	6/25/2018	Health-Nurse Family Partnership	Transfer funds cvr dues/subscriptions	\$ 191
54005	6/25/2018	Health-WIC	Transfer funds cvr ed/cert/trng and awards/appreciation	\$ 1,334
54711	6/25/2018	Health-PCM/CC4C	Transfer funds cvr Verizon charges	\$ 293
54712	6/26/2018	Health-PCM/CC4C	Transfer funds cvr anticipated Jun travel/training for CPCM	\$ 1,000
54508	6/28/2018	Health-PCM/CC4C	Transfer funds cvr awards/appreciation	\$ 1,260
53404	6/28/2018	Health-School Health	Transfer funds cvr dept supplies	\$ 15
66002	6/28/2018	Health-Employee Health	Transfer funds to cover part of tier2 drugs; rental; professional serv; awards/apprec	\$ 8,580
23501	6/29/2018	Cap Proj KMG	Correct budget balances for funding sources	\$ 115
54406	6/29/2018	Health/WIC	Transfer funds cvr travel/training for p/c 10557-5409	\$ 80
54713	6/29/2018	Health-PCM/CC4C	Transfer funds cvr postage	\$ 21

TAX COLLECTOR'S SETTLEMENT

CLEVELAND COUNTY, NORTH CAROLINA						
Settlement for Current-Year Taxes and Delinquent Taxes						
REAL PROPERTY				INCLUDES DISCOUNT		
SCHEDULE OF AD VALOREM TAXES RECEIVABLE						
YEAR ENDED JUNE 30, 2018						
FISCAL YEAR	UNCOLLECTED BALANCE 06/30/17	ORIGINAL LEVY	DISCOVERIES SUPPLEMENTS	COLLECTIONS	ABATEMENTS AND OTHER CREDITS	UNCOLLECTED BALANCE 06/30/18
2017		\$71,051,743.76	\$7,210,860.37	\$76,681,947.38	\$194,974.73	\$1,385,682.02
2016	\$1,248,939.07			\$718,304.30	\$2,062.32	\$528,572.45
2015	\$518,741.80			\$191,951.18	-\$900.15	\$327,690.77
2014	\$364,461.36			\$84,196.14	\$40.79	\$280,224.43
2013	\$202,403.53			\$39,044.47	-\$40.68	\$163,399.74
2012	\$137,661.48			\$24,583.44	-\$107.40	\$113,185.44
2011	\$95,990.59			\$13,020.13	-\$242.68	\$83,213.14
2010	\$82,923.39			\$8,821.26	-\$242.68	\$74,344.81
2009	\$79,142.94			\$5,588.76	-\$242.68	\$73,796.86
2008	\$58,199.07			\$3,857.42	-\$242.68	\$54,584.33
2007	\$59,306.47		-\$6,924.79	\$236.22	\$52,145.46	\$0.00
2006	\$28.47				\$28.47	\$0.00
Total	\$2,847,798.17	\$71,051,743.76	\$7,203,935.58	\$77,771,550.70	\$247,232.82	\$3,084,693.99
					2017 DISCOUNTS	\$155,576.69
					2017 UNCOLLECTABLE BANKRUPTCY FILINGS	\$75,714.73

EMERGENCY MANAGEMENT: BUDGET AMENDMENT (BNA #002)

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

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

Account Number	Project Code	Department/Account Name	Increase	Decrease
040.243.4.409.00		Cap Proj-Am Red Cross/Local Revenues	\$42,000.00	
040.243.5.990.00		Cap Proj-Am Red Cross/CO – Other Improve	\$42,000.00	
010.445.4.409.00		Emergency Mgmt/Local Revenues	\$7,200.00	
010.445.5.210.00		Emergency Mgmt/Departmental Supplies	\$3,000.00	
010.445.5.310.00		Emergency Mgmt/Travel-Training	\$1,200.00	
010.445.5.321.00		Emergency Mgmt/Telecommunications	\$1,200.00	
010.445.5.421.00		Emergency Mgmt/Maint Contracts-Equip	\$1,800.00	

Explanation of Revisions: Budget \$49,200 for FY2019, Duke Power Grant Funds rec'd. Part of the funds are being placed in the Capital Project account for new equipment needed at the American Red Cross Building for EOC operations. The remainder will go into the Emergency Management operational department to cover supplies, travel/training, telecommunications needs and data link equipment.

CLEVELAND COMMUNITY COLLEGE: BUDGET AMENDMENT (BNA #003)

ACTION: Commissioner Allen made a motion, seconded by Commissioner Bridges, 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>
010.410.4.991.00		General Revenues/Fund Bal Appropriated	\$2,000.00	
010.604.5.700.00		Cleveland Comm College/Grants	\$2,000.00	

Explanation of Revisions: To budget \$2,000 in requested match to Cleveland Community College Foundation for NC Dept Commerce Grant - Cleveland Community College Foundation requested the County contribute \$2,000 of the requested \$9,250 match.

REMOVAL OF SERVICE WEAPON FOR RETIRED DEPUTY WILLIAM CHAPMAN

Sheriff Alan Norman requested retiring Deputy William Scott Chapman be presented his departmental service weapon. Deputy Chapman retired on December 31, 2017, after 30 years of full time law enforcement service with the Cleveland County Sheriff's Office. The service weapon requested to be removed from inventory is a Glock 9mm, Model 17, serial number BDKT-832 and County asset number 201170.

ACTION: Commissioner Allen made the motion, seconded by Commissioner Bridges, and unanimously adopted by the Board, *to approve the request to remove the service weapon from County inventory and issue to retired Deputy William Scott Chapman.*

REGULAR AGENDA

ROAD PAVING ASSESSMENT POLICY

Chairman Holbrook recognized Senior Planner Chris Martin to present the Road Paving Assessment Policy. Mr. Martin stated at the July 18, 2018 Commissioners Meeting, the Board had some questions and concerns regarding the Road Paving Assessment Policy that was presented that evening. Staff has since revised the policy to bring back before the Board for approval. North Carolina General Statute §153A-205 allows counties to finance the cost of improvements by assessment of property owners which are intended for unpaved roads to help them meet NCDOT standards. The County has had a policy in place for over 20 years which follows statute requiring 75% of abutting home homeowners to sign the petition. It has been over ten years since last project was approved and completed. Recently, there has been several requests from County citizens for help to improve their private road which has allowed staff to evaluate the policy and determine the best avenues of funding and managing the projects. Several new recommendations are:

- Require 85% of the land owners abutting the project to sign the petition.
- The cost of the project must not exceed the total assessed tax value of the properties abutting the street.
- Staff would only handle projects when there is available funding which would allow for improved management of the budget from year to year.
- In the event there is more than one petition at a given time, the Planning Board would evaluate and prioritize the petitions to determine which project should be first.

Chairman Holbrook opened the floor to the Board for questions and discussion. Commissioner Hutchins stated the 85% requirement from the homeowners was a good compromise. He continued by stating the cost of completing all the roads at one time would be millions of dollars; the new revisions would allow for better management and prioritization. Commissioner Whetstine also felt more comfortable with the new revisions. The road paving assessment policy will help the homeowners on the private roads be able to finance and complete the

necessary road pavings without deflating the County's budget. Chairman Holbrook stated, the County Manager was asked for due diligence regarding the assessment policy with regards to not only this fiscal year's budget, but budgetarily doing projects moving forward. The Board thanked Staff and the Finance Department for the work and presentations which allowed Commissioners to see options available to proceed forward in an organized and systematic manner.

ASSESSMENT POLICY

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 maintenance system. These streets which were approved and recorded with the Registers of Deeds after September 30, 1975, shall be improved to meet the standards of the Secondary Roads Council and therefore be accepted for state maintenance. No project may commence under GS153A-205 prior to approval by NCDOT. In addition, \$1.00 per linear foot is charged to the project to cover administrative cost. Funding for road improvement projects shall not exceed money available in the Road Paving Capital Reserve Fund. In the event where there are multiple petitions, the Planning Board shall prioritize the petitions.

Project Summary:

The following must be complete.

- Property owners submit a completed petition to the Planning Office.
- NCDOT must approve the petition and proposed project.
- Right-of-way must be dedicated to the public. (For projects under GS153A-205b)
- Planning solicits bids for design/build.
- Commissioners hold Public Hearing, adopt the Assessment Resolution and award the bid.
- Planning Department will be responsible for managing the project throughout the notification and hearing process, and also ensuring the improvements to the road meets the requirements to be maintained by the NCDOT.
- NCDOT accepts the road into the State Road System.
- Commissioners hold a second Public Hearing to adopt the final Assessment Roll.

Petition Requirements

Please read the following instructions before signing the petition.

- The petition must be signed by eighty-five (85%) percent of the landowners abutting the street.
- Property owners who own more than one property abutting the street must sign the petition for each of their properties within the project area.
- If the property is deeded in the name of one owner or spouse, then only that person's signature is required for the petition. If the property is deeded in the name of multiple parties, then all owners' signatures are required as they are recorded on the property deed.
- This petition is valid for 90 days from the date specified on the petition
- If the petition is withdrawn by the property owners at any time during the process, the Board of Commissioners may assess each property owner for all cost incurred by the County, such as but not limited to: surveying fees, engineering fees, permits, legal fees, advertising, and administration cost.
- The cost of the project must not exceed the total assessed value of the properties abutting the street.

Assessment / Payment

All assessments, including interest and collection costs, are due in full within five (5) years after confirmation of the assessment roll.

Each Assessment is a lien on the property assessed of the same nature and to the same extent as the lien for county or city property taxes, under the priorities set out in G.S. 153A-200. Any portion of an assessment that is not paid within 30 days after the day that notice of confirmation of the assessment roll is published shall, until paid, bear interest at a rate to be fixed in the assessment resolution. The first installment with interest is due 60 days after the date that the assessment roll is confirmed, and one installment with interest is due on that same day in each successive year until the assessment is paid in full. A county may foreclose assessment liens under any procedure provided by law for the foreclosure of property tax liens, except that (i) lien sales certificates are not required and (ii) foreclosure may be begun at any time after 30 days after the due date.

Policy Adopted 1-04-93

Revised 7-06-93, 8-03-93, 2-20-96, 2-21-97, 6-26-2014 (HB 1134), 8-7-2018

ACTION: Commissioner Hutchins made the motion, seconded by Commissioner Whetstine and unanimously approved by the Board to, *approve the revised road paving assessment policy.*

PUBLIC RECORDS POLICY AND RETENTION SCHEDULE

Chairman Holbrook called Elliot Engstrom, Senior Staff Attorney, to the podium for presentation of the Public Records Policy and Retention Schedule. The public records policy has both internal and external uses. Internally it will provide clarity to County employees as to how to handle public records requests. When an employee receives a public records request, that request will be forwarded to public.information@clevelandcounty.com which sends the request to the records review team which includes Mr. Engstrom, Public Information Officer Janet Hart and the Clerk to the Board Phyllis Nowlen. Externally, the policy will help the public understand how and where requests

should be submitted. Citizens are asked to submit their request to the public information email. Other items included in the public records policy are:

- Information on fees charged for public records.
- Clarity as to how the County will handle large requests for electronic records like emails and text messages.
- Authorization of the use of voluntary mediation to resolve disputes prior to there being a lawsuit.

Public Records

Elliot Engstrom
Senior Staff Attorney
August 7, 2018

Cleveland County
NORTH CAROLINA

Two Items

- ▶ Public Records Policy
- ▶ Public Records Retention Policy for County Management

Public Records Policy

- ▶ Why now?
 - ▶ New Public Information Officer (PIO)
 - ▶ Uptick in public records requests

Public Records Policy

- ▶ A document that clarifies how Cleveland County fulfills public records requests and complies with the public records law.
- ▶ Has both internal and external uses.

Public Records Policy - Internal Uses

- ▶ Informs employees about how they should respond to public records requests.
- ▶ Creates a review process for records requests that involves the PIO and/or County Attorney.
- ▶ Allows for special processes for requests involving records that are routinely produced and need not be constantly reviewed.

Public Records Policy - External Uses

- ▶ Identifies to whom requests should be sent.
- ▶ Clarifies the County's custodial duties (G.S. 132-2).
- ▶ Describes the fees that the County may charge for public records (G.S. 132-6.2).
- ▶ Provides guidance for requesting electronic media (G.S. 132-6.2).
- ▶ Allows for voluntary mediation (G.S. 7A-38.3E).

Questions about public records policy?

- ▶ Request for action.

CLEVELAND COUNTY PUBLIC RECORDS POLICY

I. Scope, Purpose, and Severability

This public records policy is intended to ensure that all agencies of Cleveland County Government subject to the supervision of the Cleveland County Board of Commissioners ("BOC") comply with the North Carolina Public Records Act ("NCPRA"). To the extent that any portion of this policy conflicts with the NCPRA, that portion will be considered void, with the rest of the policy remaining in force. This is the County's sole public records policy, intended for both external and internal use.

II. Procedure For Making a Public Records Request

The County requests that members of the public request records by contacting:

Public Information Officer
Cleveland County
P.O. Box 1210, Shelby, NC 28151
Public.information@clevelandcountv.com

Members of the public can use the attached public records request form to request records. If the actual form is not used, the County requests that members of the public include all of the information from the form, as this will help expedite the request.

III. Procedure Upon Receiving a Public Records Request

Upon receiving a public records request, a County employee should immediately forward the request to the Public Information Officer (PIO) at the email address listed above. County employees should always forward public records requests to the PIO. County employees should not attempt to fulfill records requests until they have been told to do so by the PIO or County Attorney. The County may arrange for alternative methods of fulfilling public records requests that involve documents that are routinely produced and need not be reviewed each time they are requested.

IV. Scope of the County's Custodial Duties

The NCPRA provides that a "custodian" of records must provide access to "any record in the custodian's custody."¹ This "custodian" is defined by statute as "the public official in charge of an office having public records."² This statute designates "a particular person in an office as being the designated custodian for that office's public records."³

The County often receives public records requests addressed to agencies of which the Board of Commissioners is not "in charge." Such agencies may include Cleveland Community College,

¹ N.C.G.S. § 132-6(a).

² N.C.G.S. § 132-2.

³ *Cline v. Hoke*, 238 N.C. App. 16, 21, 766 S.E.2d 861, 865 (2014).

Cleveland County Schools, the City of Shelby, or Cleveland County Water. In each case, the BOC may have some relationship with these organizations, but it is not "the" body "in charge of" these agencies. The County should not expend resources fulfilling public records requests addressed to such agencies.

V. Time Frame for Responding to Requests

The NCPRA provides that public agencies must respond to requests for records "as promptly as possible."⁴ Unlike the federal Freedom of Information Act, the NCPRA does not provide for specific timelines for responding to requests.⁵ In the absence of other guidance, the County will use its best discretion in responding to records requests "as promptly as possible." As a general rule, the County will respond to requests in the order they are received. However, a simple request may be fulfilled sooner than a complex request, even if the complex request was received first. The County further may use its discretion in how it manages multiple requests by a single person or entity in order to not delay requests by others.

VI. Requests for Email, Text Messages, and Other Forms of Electronic Media

The NCPRA requires that the County allow records within its custody to be inspected and/or copied. When the County has the ability to allow a given record to be inspected, it will do so. However, the County does not have a method by which employee emails, text messages, and other electronic media can be "inspected" by a records requester, and the NCPRA does not require it to create one.⁶ Requests for electronic media made to the County will therefore be treated as requests for copies of said records, and extensive requests may be subject to special service fees.⁷

VII. Use of Voluntary Mediation

The General Statutes authorize the parties to a public records dispute to voluntarily mediate their disagreement.⁸ The County Manager, County Attorney, Senior Staff Attorney, and Public Information Officer are each authorized to initiate mediation as agents of the County.

VIII. Fees

The fees that the County may charge for public records are those listed on the attached form.

IX. Adoption

This public records policy was approved by the Cleveland County Board of Commissioners at its August 7, 2018 meeting. [Draft note: as of this writing approval is still pending]

⁴ N.C.G.S. § 132-6(a).

⁵ See 5 U.S.C. § 552(a)(6)(A)(i) (providing that a federal agency must determine whether to comply with a records request within 20 days).

⁶ N.C.G.S. § 132-6.1(e).

⁷ See N.C.G.S. § 132-6.2(b).

⁸ N.C.G.S. § 7A-38.3E(a).

ACTION: Commissioner Hutchins made the motion, seconded by Commissioner Bridges and unanimously approved by the Board to, *approve the Public Records Policy.*

Mr. Engstrom continued with the Public Records Retention Schedule. The Records Retention and Disposition Schedule for County Management allows the County to dispose of records according to a state-approved schedule published by the North Carolina Department of Natural and Cultural Resources (DNCR). The schedule must be approved in order to be valid. The retention schedule has been approved in the past, but should be approved again to include all the current amendments. It also allows the County to dispose of certain records once their administrative value ends, and it allows the County to decide what that timeframe is. Staff has deemed the administrative value of most records that are not otherwise provided for by DNCR, ends after 30 days.

Public Records Retention Schedule

- ▶ Default rule is that County must always seek approval of North Carolina Department of Natural and Cultural Resources (DNCR) to destroy *any* records (G.S. 121-5(b)).
- ▶ However, DNCR creates retention schedules that serve as approval to destroy records (G.S. 121-5(c)).
- ▶ The State (DNCR) decides how long records must be kept.
- ▶ DNCR allows for these to be approved as part of the consent agenda.

Questions about public records retention schedule?

Request for action

Chairman Holbrook opened the floor to the Board for questions and discussion. Commissioner Hutchins asked if text messages and emails are included in the retention schedule. Mr. Engstrom said they were included. Commissioner Bridges stated, for clarification, the retention schedule is already set and mandated by the State. Mr. Engstrom replied that was correct and adopting the retention schedule will allow the County to have a standard process and policy of record maintenance and disposal. Commissioner Whetstine inquired if approving this, will show the County is in compliance should a request for records be submitted and the County no longer has that particular record? Mr. Engstrom answered yes it would. The entire schedule and guidelines can be read on-line at www.ncdcr.gov.

ACTION: Commissioner Bridges made the motion, seconded by Commissioner Allen and unanimously approved by the Board to, *approve the County Management Public Records Retention Schedule.*

BOARD APPOINTMENTS

PARTNERS BOARD OF DIRECTORS

ACTION: Commissioner Allen made the motion, seconded by Commissioner Whetstine, and unanimously adopted by the Board, *to appoint Alex Bell to serve as a member of this board*, for a period of three-years, scheduled to conclude June 30, 2021.

COMMISSIONER REPORTS

Commissioner Bridges – advised the Shelby Cleveland County airport will reopen Saturday morning. It has been closed due to construction. He attended the library’s end of the summer celebration which had a great turnout of students and parents.

Commissioner Whetstine – stated the litter bug poster contest winners are up on the billboards. The Planning Board is working on a cell tower ordinance that will be brought to the Commissioners when it is ready for approval.

Commissioner Hutchins – talked about several events held in the County such as the Commission for Women Annual Gala and spoke about some of the improvements planned for the Foothills Shooting Complex.

Commissioner Allen – attended an Opioid Task Force Summit last week. She also visited Washington Outreach Ministry in Waco. They have a program which feeds about 300 people twice a month.

Chairman Holbrook – spoke about the American Legion World Series games, events and special guests who will be in attendance.

ADJOURN

There being no further business to come before the Board at this time, Commissioner Hutchins made the motion, seconded by Commissioner Whetstine, and unanimously adopted by the Board, *to adjourn the meeting.*

The next meeting of the Commission is scheduled for *Tuesday, September 4, 2018 at 6:00 p.m. in the Commissioners Chamber.*

*Eddie Holbrook, Chairman
Cleveland County Board of Commissioners*

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