

CUMBERLAND COUNTY FINANCE COMMITTEE
COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564
FEBRUARY 15, 2018 – 1:00 PM
SPECIAL MEETING MINUTES

MEMBERS PRESENT: Commissioner Jimmy Keefe, Chairman
Commissioner Glenn Adams
Commissioner Marshall Faircloth

OTHERS: Commissioner Michael Boose
Commissioner Jeannette Council
Commissioner Larry Lancaster
Amy Cannon, County Manager
Melissa Cardinali, Assistant County Manager
Tracy Jackson, Assistant County Manager
Sally Shutt, Assistant County Manager
Duane Holder, Assistant County Manager
Rick Moorefield, County Attorney
Vicki Evans, Finance Director
Heather Harris, Budget Analyst
Jeffery Brown, Engineering and Infrastructure Director
Joe Utley, Tax Administrator
Tammy Gillis, Director of Internal Audit and Wellness Services
William R. West, District Attorney
Ennis Wright, Cumberland County Sheriff
Ronnie Mitchell, Sheriff Office Legal Counsel
Major Tandra Adams, Chief Jailer
Tim Kinlaw, Cumberland County Schools Interim Superintendent
Clyde Locklear, Cumberland County Schools Associate
Superintendent
Nick Sojka, Cumberland County Schools Attorney
Carrie Sutton, Board of Education Chair
Greg West, Board of Education
Candice H. White, Clerk to the Board
Press

Commissioner Keefe called the meeting to order and welcomed everyone in attendance.

1. APPROVAL OF AGENDA

MOTION: Commissioner Faircloth moved to approve the agenda.
SECOND: Commissioner Adams
VOTE: UNANIMOUS (3-0)

2. UPDATE FROM WILLIAM R. WEST, DISTRICT ATTORNEY ON COUNTY FUNDED
ASSISTANT DISTRICT ATTORNEY (ADA) POSITION

Amy Cannon, County Manager, stated this update was requested by the Finance Committee at its December 2017 meeting. District Attorney Billy West stated his office is indebted to the Board of Commissioners for funding an Assistant District Attorney since 2005 because this allows his Senior District Attorneys to deal with the jail population and other jail issues on a daily basis. District Attorney West introduced his staff members in attendance. District Attorney West explained the jail acceleration program and stated for the one- year period from January 1 – December 31, 2017, the number of inmate days of confinement through the jail acceleration program was reduced as follows:

Inmate cost per day	\$75.55
Number of days of confinement saved	6,165
Savings this period	\$465,765.75

District Attorney West stated many times felony cases are also expedited and can save at least 60 days. District Attorney West spoke to costs for transporting inmates to and from other counties and stated efforts are made to be sure they are needed in court to cut down on costs. District Attorney West also spoke to the high cost of medical issues and stated when possible, efforts are made to resolve these inmates' cases efficiently so the County's responsibility for this high cost medical care is greatly reduced. District Attorney West explained the strong working relationship with Cherry Hospital to appropriately address any Cumberland County inmate's mental health issues and to determine whether inmates are competent or not competent to proceed to trial. District Attorney West stated the goal of the Community Jail Initiative, which meets weekly and has court sessions every other Tuesday morning, is to help reduce the number of mental health inmates in the Cumberland County Detention Facility.

District Attorney West shared information about what other Boards of Commissioners fund in similar size counties and stated without the commitment of the Cumberland County Board of Commissioners and the ADA position, the jail would not be 100 under capacity as it is at present. District Attorney stated the Pre-Trial Release program is also very valuable. District Attorney West concluded his update by stating there are work load formulas that show the District Attorney's office is in need of two to three additional ADA positions. District Attorney West responded to questions. Commissioner Adams stated he felt the committee should come back together and have communication about looking at bonds and whether inmates can get out earlier. District Attorney West concurred.

3. PRESENTATION ON JAIL HEALTH FROM MAJOR TANDRA ADAMS, CHIEF JAILER ON JAIL HEALTH AND CONSIDERATION OF SOUTHERN HEALTH PARTNERS CONTRACT AMENDMENT AND ASSOCIATED BUDGET REVISION

BACKGROUND:

Southern Health Partners was awarded a contract to provide Jail Health Services at the Cumberland County Detention Center effective July 1, 2017 (other than mental health) and have been providing all Health Services with the exception of Mental Health service since that time. For the period of July 1, 2017 to December 31, 2017, the County continued to employ Mental Health professional for the provision of Mental Health services at the Detention Center. Effective January 1, 2018,

the provision of Mental Health services was transferred to Southern Health Partners. A contract amendment has been prepared related to these additional services and costs. Further, an addendum to the contract has been proposed for the provision of mental health services by Southern Health Partners.

RECOMMENDATION/PROPOSED ACTION:

Recommendation is that the Finance Committee approve the following recommendations and forward this as a Consent Agenda item to the Board of Commissioners for its consideration at their February 19th meeting:

1. Accept the Jail Health Presentation.
2. Review and approve the Southern Health Partners Contract Amendment.
3. Approve Budget Ordinance Amendment #B180119 to utilize fund balance in the amount of \$339,824 for salaries and costs related to transition period of Mental Health services provided by County employees through December 31, 2017.
4. Adopt the addendum to the contract and fund the addendum to the contract to provide for the administration and provision of Mental Health Services by Southern Health Partners.

**ADDENDUM AND MODIFICATION #1
HEALTH SERVICES AGREEMENT**

This ADDENDUM AND MODIFICATION #1, to Health Services Agreement dated June 30, 2017, between Cumberland County, North Carolina, (hereinafter referred to as "County"), and Southern Health Partners, Inc., a Delaware Corporation, (hereinafter referred to as "SHP"), with services commencing on July 1, 2017, is entered into as of this _____ day of _____, 2017.

WITNESSETH:

WHEREAS, County and SHP desire to modify the Health Services Agreement dated June 30, 2017, between County and SHP; and

WHEREAS, the Health Services Agreement dated June 30, 2017, contemplated the following:

"County acknowledges its election to independently provide and pay for on-site mental health services through County's mental health staff of providers. SHP agrees to work with County's mental health staff providers. The costs of all mental health services provided through County's mental health staff providers are specifically excluded from this Agreement and shall be the financial responsibility of County, or shall not otherwise be the financial responsibility of SHP.

[and]

Additionally, the parties contemplate that SHP, on or before January 1, 2018, will commence the provision of mental health services in a manner and at a price consistent with that set forth in SHP's Response to the Request for Proposals. The parties anticipate that SHP will recruit to provide staffing for the provision of mental health services on or prior to that date, and agree that a specific addendum to this contract will be executed by the parties consistent with such staffing and

pricing models as set forth in SHP's Response to Request for Proposal (bid date May 18, 2017) which Response is incorporated and adopted by reference on or before January 1, 2018."

NOW, THEREFORE, in consideration of the covenants and promises hereinafter made, the parties hereto agree as follows:

Section 1.2 is hereby modified and replaced in its entirety by the following:

1.2 Scope of General Services. The responsibility of SHP for medical care of an inmate commences with the booking and physical placement of said inmate into the Jail. The health care services provided by SHP shall be for all persons committed to the custody of the Jail, except those identified in Section 1.7. SHP shall provide and/or arrange for all professional medical, dental, mental health and related health care and administrative services for the inmates, regularly scheduled sick call, nursing care, regular physician care, medical specialty services, emergency medical care, emergency ambulance services when medically necessary, medical records management, pharmacy services management, administrative support services, and other services, all as more specifically described herein.

SHP shall be financially responsible for the costs of all physician and nurse staffing, routine on-site dental services (including dental supplies), over-the-counter medications, medical supplies, medical hazardous waste disposal, office supplies, forms, folders, files, travel expenses, publications, administrative services and nursing time to train officers in the Jail on various medical matters. SHP's financial responsibility for the costs of all emergency kits and restocking of emergency kit supplies, all necessary license and permit fees, all prescription pharmaceuticals, all biological products (used to prevent, diagnose or treat diseases and medical conditions), all clinical lab procedures (inside and outside the Jail), all x-ray procedures (inside and outside the Jail), all dental services other than those provided through SHP's contracted dental provider and all medical and mental health services rendered outside the Jail shall be limited by the annual cost pool described in Section 1.5 of this Agreement. All pool costs in excess of the annual cost pool limit shall be the financial responsibility of the County, or shall not otherwise be the financial responsibility of SHP.

Should new legislation require substantial or new medical directives to SHP in the provision of services under this Agreement, SHP will not be financially responsible for changes to its program, rather SHP would have the ability to seek from the County any additional monies to fund such directives.

Section 2.1 is hereby modified and replaced in its entirety by the following:

2.1 Staffing. SHP shall provide medical and support personnel reasonably necessary for the rendering of health care services to inmates at the Jail as described in and required by this Agreement, and as outlined in the proposal staffing model provided herein for reference.

Staff hours worked in excess of this contracted staffing plan, not to include SHP training hours, may be billed back to the County on a monthly basis, upon the consent of County, which

consent shall not be unreasonably withheld, at the actual wage and benefit rate, for staffing services performed on-site at the facility, provided, however, that this term of this contract is not intended to, and shall not include, nor shall the County have liability for overtime pay, but, instead, this provision concerning excess hours shall be invoked and such charges incurred only if the staffing levels contemplated under this contract prove to be insufficient, and the parties agree that additional staff hours, whether of then-existing or additional staff are, in fact, needed.

Further, SHP may provide replacement or limited staffing coverage in absences, which may be due to vacation time or SHP-designated holidays. SHP reserves the right to make adjustments to the regular staffing schedule for flexible coverage on SHP-designated holidays. If any such absences exceed five (5) consecutive days, not to include vacation time or SHP-designated holidays, SHP will refund the County the cost of the staffing hours on the next month's base fee billing.

County acknowledges that, any additional hours worked in excess of the contracted staffing plan by a physician/physician extender or dental provider shall also be billed back to County for reimbursement to SHP. Such costs may, at the election of the County, be applied toward the annual cost pool accounting totals.

Further, it is understood the Professional Provider hours may be filled by a Physician, or Mid-Level Practitioner. Either will be duly licensed to practice medicine in the State of North Carolina, and will be available to our nursing staff for resource, consultation and direction twenty-four (24) hours per day, seven (7) days per week.

Staff shifts may be adjusted by SHP in order to maintain stability of the program and consistency with staff. Any adjustments or changes to fixed schedules would be made after discussions with the Sheriff and other involved County officials. Professional Provider visit times and dates will be coordinated with Jail Management, and may include the use of telehealth services. Some of the Professional Provider time may be used for phone consults with medical staff and for other administrative duties.

County and SHP acknowledge that, effective on or about January 1, 2018, SHP will incorporate psychiatrist staffing, for sixteen (16) hours per week, for the provision of mental health services, and further, that, SHP will incorporate additional mental health staffing positions (a psychologist and a QMHP/LCSW), for an increased staffing plan as outlined in the model (table) provided herein for reference. SHP's contract price will increase accordingly, as stated in Section No. 7.1 of this Agreement.

Cumberland, NC - Staffing Model 24-hour coverage									
ADP - 778									
<u>POSITION</u>	<u>S</u>	<u>M</u>	<u>T</u>	<u>W</u>	<u>T</u>	<u>F</u>	<u>S</u>	<u>HRS/W</u> <u>K</u>	<u>FTE</u>
<u>Professional Staff</u>									
Medical Director			5		5			10	0.25

NP/PA		5	5	5	5	5		25	0.62 5
Dentist (Bi-weekly)				4				4	0.1
Dental Hygienist (Bi-weekly)				4				4	0.1
Psychologist		8	8	8	8	8		40	1
Psychiatrist		6		5		5		16	0.4
<u>Administrative Staff</u>									
Director of Nursing (RN)		8	8	8	8	8		40	1
Medical Team Administrator (RN/LPN)		8	8	8	8	8		40	1
Medical Clerk/Administrative Assistant		8	8	8	8	8		40	1
LPN Float	8	8	8	8	8	8	8	56	1.4
QMHP/LCSW		8	8	8	8	8		40	1
<u>Support Staff</u>									
<i>Day shift</i>									
RN - Weekends	1 2						1 2	24	0.6
LPN Booking	1 2	1 2	1 2	1 2	1 2	1 2	1 2	84	2.1
LPN	1 2	1 2	1 2	1 2	1 2	1 2	1 2	84	2.1
Med Tech/EMT	1 2	1 2	1 2	1 2	1 2	1 2	1 2	84	2.1
<i>Evening shift</i>									
RN	1 2	1 2	1 2	1 2	1 2	1 2	1 2	84	2.1
LPN Booking	1 2	1 2	1 2	1 2	1 2	1 2	1 2	84	2.1
LPN	1 2	1 2	1 2	1 2	1 2	1 2	1 2	84	2.1
Med Tech/EMT	1 2	1 2	1 2	1 2	1 2	1 2	1 2	84	2.1
TOTAL WEEKLY HOURS								927	23.1 8

Section 7.1 is hereby modified and replaced in its entirety by the following:

7.1 Base Compensation. Effective January 1, 2018, the amount of base contract compensation to SHP shall increase to the twelve-month annualized price of \$2,455,476.00, payable by County in monthly installments. Monthly installments based on the twelve-month annualized price of \$2,455,476.00 will be in the amount of \$204,623.00 each. SHP will bill County approximately thirty days prior to the month in which services are to be rendered. County agrees to pay SHP prior to the tenth day of the month in which services are rendered. In the event this Agreement should commence or terminate on a date other than the first or last day of any calendar month, compensation to SHP will be prorated accordingly for the shortened month.

Section 7.2 is hereby replaced in its entirety by the following:

7.2 Increases in Inmate Population. County and SHP agree that the annual base price is calculated based upon an average daily inmate population of up to 778. If the average daily inmate population exceeds 778 inmates for any given month, the compensation payable to SHP by County shall be increased by a per diem rate of \$1.25 for each inmate over 778. The average daily inmate resident population shall be calculated by adding the population or head count totals taken at a consistent time each day and dividing by the number of counts taken. The excess over an average of 778, if any, will be multiplied by the per diem rate and by the number of days in the month to arrive at the increase in compensation payable to SHP for that month. In all cases where adjustments become necessary, the invoice adjustment will be made on the invoice for a subsequent month's services. For example, if there is an average population for any given month of 783 inmates, resulting in an excess of five (5) inmates, then SHP shall receive additional compensation of five (5) times the per diem rate times the number of days in that month. The resulting amount will be an addition to the regular base fee and will be billed on a subsequent monthly invoice.

This *per diem* is intended to cover additional cost in those instances where minor, short-term changes in the inmate population result in the higher utilization of routine supplies and services. However, the per diem is not intended to provide for any additional fixed costs, such as new fixed staffing positions that might prove necessary if the inmate population grows significantly and if the population increase is sustained. In such cases, SHP reserves the right to negotiate for an increase to its staffing complement and its contract price in order to continue to provide services to the increased number of inmates and maintain the quality of care. This would be done with the full knowledge and agreement of the Sheriff and other involved County officials, and following appropriate notification to County.

IN WITNESS WHEREOF, the parties have executed this Agreement in their official capacities with legal authority to do so.

Major Tandra Adams, Chief Jailer, stated Southern Health Partners has been providing all health services at the jail with the exception of mental health services since July 1, 2017 and has done an excellent job with helping the Detention Center scrub some of its bills. Major Adams reviewed figures for inmate medications, inmates admitted to the hospital, total emergency room visits for the year, total off site hospital visits, services for the year and cost savings therein. Major Adams

also reviewed a breakdown of medical issues by type throughout the Detention Center, information about inmates with extremely low bonds which need very expensive medical care and a monthly service report from Southern Health Partners.

Ronnie Mitchell, Sheriff's Office Legal Counsel, stated effective January 1, 2018, the provision of mental health services was transferred to Southern Health Partners and the amendment to the contract has been prepared related to these additional services and costs. Mr. Mitchell stated Southern Health Partners has provided data on cost savings and has substantially cut down the number of complaints received for the inadequacy of treatment. Mr. Mitchell stated many of the inmates with mental health issues also have severe substance abuse problems and the belief is that costs will go up until this can be resolved. Mr. Mitchell urged the Finance Committee to recommend approval of the contract amendment.

Questions followed about costs related to the budget ordinance amendment and addendum to the contract. Commissioner Keefe inquired regarding Alliance Behavioral Healthcare. Major Adams stated Alliance employees come into the jail to counsel and Southern Health Partners provide treatment. In response to a question posed by Commissioner Adams, Ms. Evans explained Southern Health Partners started providing mental health services on January 1, 2018 but have not invoiced for those services and have continued to bill at the original contract monthly amount. Ms. Evans stated the amended contract monthly amount will now increase to include the provision mental health services January 1 through June 30, 2018. Commissioner Faircloth asked whether the County employees were budgeted through December 31, 2017 or June 30, 2018. Ms. Evans stated the contract with Southern Health Partners was approved by the Board on June 15, 2017 so a temporary amount was put in the budget to cover staffing through December 2017.

MOTION: Commissioner Adams moved to approve the Southern Health Partners contract amendment and budget ordinance amendment #B180119 to utilize fund balance in the amount of \$339,824.

SECOND: Commissioner Faircloth

VOTE: UNANIMOUS (3-0)

4. CONSIDERATION OF ANNUAL SCHOOL FUNDING FOR THE CUMBERLAND COUNTY SCHOOL SYSTEM

BACKGROUND:

The current funding agreement with the Cumberland County School System(CCSS) expires June 30, 2018. This funding agreement allows both the County and CCSS to more accurately plan and prepare annual budgets. The current agreement provides CCSS revenue derived from \$0.3406 on the County's ad valorem property tax rate.

However, for FY18 the agreement held the school system harmless for revaluation resulting in \$0.3604 on the property tax rate being distributed to CCSS or \$80,362,412. The agreement also provides that actual taxes collected above the budget are split 75% (County) / 25% (CCSS).

CCSS is currently searching for a new Superintendent for the System. There has been general agreement that until a new Superintendent is in place and acclimated to the system and county, it is in the best interest of all parties to freeze funding for the next 2 fiscal years.

Therefore, management is proposing to freeze funding for CCSS at the FY17 level of \$79,463,109. This reflects the cumulative enrollment decrease of approximately 1.10% over the past 5 years.

RECOMMENDATION/PROPOSED ACTION:

Management recommends approving the annual funding for the Cumberland County School System at the fixed amount of \$79,463,109 for fiscal years 2018-19 and 2019-20.

The information below was presented at the November 2, 2017 Finance Committee meeting to provide assistance when arriving at a funding decision.

Cumberland County Schools K-12 Enrollment (as used for resource allotment)

Fiscal Year	CCSS	Charter Schools	Total	% Change (Cumulative)
2012-13	51,890	263	52,153	
2013-14	51,855	410	52,265	0.21%
2014-15	50,939	628	51,567	(1.12%)
2015-16	50,662	887	51,549	(1.16%)
2016-17	50,558	1,019	51,577	(1.10%)

Cumberland County Schools Impact Aid – (used to pay teacher supplements)

Fiscal Year	Funds Received	% Change (Cumulative)
2012-13	\$5,834,185	
2013-14	\$4,480,986	(23.19%)
2014-15	\$4,907,172	(15.89%)
2015-16	\$4,332,425	(25.74%)
2016-17	\$4,033,227	(30.87%)

Annual Funding from Cumberland County to CCSS

Fiscal Year	County Funding	Cumulative Increase	% Change (Cumulative)
2012-13	\$76,220,676		
2013-14	\$76,220,676	\$0	
2014-15	\$76,982,883	\$762,207	1.00%
2015-16	\$78,345,062	\$2,124,386	2.79%
2016-17	\$79,463,109	\$3,242,433	4.25%

Cumberland County Schools Unassigned Fund Balance

Fiscal Year	Unassigned Fund Balance
2012-13	\$28,150,619
2013-14	\$22,640,043
2014-15	\$23,371,510

2015-16	\$28,441,184
2016-17	\$28,323,657

Melissa Cardinali, reviewed the background information and the information that was presented at the November 2, 2017 Finance Committee meeting recorded above, and stated management recommends approving the annual funding for the Cumberland County School System at the fixed amount of \$79,463,109 for fiscal years 2018-19 and 2019-20.

Commissioner Keefe asked whether this number would be affected should there be a change in the sales tax distribution method. Ms. Cannon stated it would not be affected because sales tax is related to the capital side which is a different segregated fund, and this is local recurring expense funding. Commissioner Adams posed questions about the school system's fund balance of \$28 million and the County's fund balance. Ms. Cannon clarified the County's general fund fund balance includes the school capital outlay fund balance and stated they have to be combined together for GAAP (General Accepted Accounting Principles) purposes. Discussion followed about the school's fund balance, whether to freeze funding until a new Superintendent is in place, the tax rate and the General Assembly's education funding.

Tim Kinlaw, Cumberland County Schools Interim Superintendent, stated the formula has served the school system well because it gives an annual defined amount so the boards do not have to negotiate and at the same time it protects County taxpayers because it has kept the increase at a manageable rate based on expenses. Mr. Kinlaw stated capital outlay funds from the state have gone from \$13 million in 2008 to \$3.5 million from the lottery fund which eliminated the school construction fund. Mr. Kinlaw stated the school system is facing school facility needs that will be overwhelming in the next five years and the Board of Education has purposefully tried to take funds to put in the fund balance for capital outlay needs. Mr. Kinlaw outlined some of the issues facing the school system and referenced a conversation he had with the County Manager about considering a capital outlay clause in the agreement so that when the County retired school debt, a percentage of those funds could be allocated to a capital outlay fund for school renovation and construction. Mr. Kinlaw stated he believes what is being requested by the Board of Education is to maintain what the school system has already been given. Consensus was to table until the March 1 meeting of the Finance Committee.

5. GRAYS CREEK WATER CONTAMINATION - FINANCIAL UPDATE ON COST TO RUN PUBLIC WATER TO THE AREA DESIGNATED AS CONTAMINATED AROUND THE CHEMOURS PLANT

BACKGROUND:

We were briefed at the retreat on the cost to do an analysis of the area of \$187K. For budgeting purposes and in the interest of public health, have we determined a budget amount for planning purposes in next year's budget? In addition, is there plan of action and updated costs on expenditures absorbed by Cumberland County in response to this situation?

RECOMMENDATION/PROPOSED ACTION:

A proactive plan for working with local, state, Chemours and the citizens affected by the contamination.

A. CONSIDERATION OF PLAN TO WORK WITH LOCAL, STATE, CHEMOURS AND CITIZENS AFFECTED BY THE CONTAMINATION

A proactive plan for working with local, state, Chemours and the citizens affected by the contamination.

Local

- PWC partnership – assess the area and determine cost of running water lines. The utility is willing to pay half the cost of hiring an engineering firm to review the earlier feasibility study and determine the engineering requirements and cost of extending water lines into the Gray's Creek Water and Sewer District.
- Complete a preliminary engineering study and environmental assessment
- Communicate with Bladen and other counties in the river basin to compare and share information about activities to assist and inform citizens and collectively work with state and federal authorities to hold Chemours accountable and ensure safe water and air quality

State

- County Management and Health Department continue to participate in weekly conference calls with NCDHHS (DEQ and DPH) and stay updated on:
 - o Ground and surface water testing
 - o Discharge and other regulatory issues
 - o Air quality
 - o Health impact
- Health Department officials attend Science Advisory Board meetings (NC Division of Public Health) to stay updated on the health effects findings
- State Legislature (County delegation, House and Senate select committees on water quality)
 - o request funding for extending water lines
 - o maintain awareness of the impact on our citizens
 - o stress importance of holding Chemours accountable
- Seek grant and loan funding for projects

Federal

- Seek federal support for water infrastructure
- Involve federal delegation in seeking EPA assistance on testing and setting regulatory standards

Chemours

- Set up meetings between the company and the commissioners and management to learn about the company's action plan and share citizen concerns

Citizens

- Provide information and facilitate communication with state officials
- Serve as a link to state resources
- Communicate appeals process currently in place to address possible tax relief for contaminated properties
- Use various platforms to provide information to citizens, including County's GenX webpage, social media and press releases

Ms. Cannon provided highlights of the plan for working with local, state, Chemours and citizens affected by the contamination as recorded above. In response to a question from Commissioner Keefe, Ms. Cannon stated she recommends any request of the Cumberland County Legislative Delegation be done by formal resolution.

B. CONSIDERATION OF PROFESSIONAL SERVICES AGREEMENT WITH MOORMAN, KIZER & REITZEL, INC. FOR THE GRAY'S CREEK WATER AND SEWER DISTRICT AND INTERLOCAL AGREEMENT WITH PWC

BACKGROUND:

At the Board of Commissioner's Planning Retreat on January 26, 2018, a brief presentation was presented on the Gray's Creek Water & Sewer District regarding the creation of the district and what steps had previously been taken by Cumberland County to extend public water into the district. In August of 2009, the Board of Commissioners approved a contract with Marziano & McGougan, P.A. to complete a Preliminary Engineering Report (PER) and Environmental Assessment (EA). The documents that were completed in 2010 are extremely outdated. The previous documents completed were for a rural system and did not include fire flow protection to the residents of the district. Not to mention, population densities and water demands have changed drastically within the district since the completion of these documents. For these reasons, the PER needs to be updated. An updated PER will provide current, realistic construction costs that are needed to adequately develop a funding model to pay for the installation of a potable water system.

It is important to note that the Marziano & McGougan, PA firm is no longer in business. In December of 2017, PWC and E&I Staff decided that from the County's list of qualified firms, Moorman, Kizer & Reitzel, Inc. (MKR) had the most local knowledge and experience working with PWC and the County on public utility infrastructure. A Request for Qualifications Process (RFQ) would take a minimum of 90 days to select a firm once the process is initiated. On January 10, 2018, E&I Staff received a proposal from MKR to update the PER and complete an Environmental Assessment (EA). PWC has agreed to equally share the cost of updating the PER and completing the EA.

E&I Staff has had several discussions with PWC Staff and MKR after receiving and reviewing the proposal. We believe the first step is to update the PER. Once this is finalized, then the EA can be updated in phases as specific projects are defined and outlined. This will eliminate the duplication of efforts and eliminate the possibility of the EA from becoming outdated before all phases of construction can be completed for the entire district.

RECOMMENDATION/PROPOSED ACTION:

The Engineering and Infrastructure Director and County Management recommend that the Facilities Committee approve the following recommendations and forward them to the Board of Commissioners for its consideration at their February 19th meeting.

1. Approve the Professional Services Agreement with Moorman, Kizer & Reitzel, Inc. in the amount of \$129,330.
2. Approve the Interlocal Agreement with the Public Works Commission contingent on the approval of the agreement by the County Attorney.
3. Approve Budget Ordinance Amendment #B180656 in the amount of \$129,330 for the completion of a Preliminary Engineering Report for the Grays Creek Water & Sewer District.

North Carolina
Cumberland County

THIS INTERLOCAL GOVERNMENT AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2018, by and between Fayetteville Public Works Commission ("PWC"), a public authority, and Cumberland County ("County"), a body politic organized and existing under the laws of the State of North Carolina (each of PWC and County is a "Party" and both are collectively the "Parties") in accordance with Article 20 of Chapter 160A of the North Carolina General Statutes in order to engage in inter-local cooperation.

The Parties agree as follows:

1. PWC and County are interested in extending PWC water service in the Gray's Creek area of Cumberland County. This extension requires a review of an existing feasibility study ("Project") to determine the engineering requirements and cost of such an extension.

2. The County will select an engineering firm from a list of qualified firms that were previously selected from a Request for Qualifications (RFQ) process for the Project and the Parties will jointly develop the scope and manage the completion of Project.

3. The County shall pay the Expert for its services in accordance with the engagement agreement. PWC shall promptly reimburse the County for fifty percent (50%) of the amount paid by the County to the Expert; provided, however, notwithstanding any provision herein to the contrary, PWC's reimbursement obligation shall not exceed ninety-three thousand four hundred fifty and 00/100 dollars (\$93,450.00). The County shall not amend the Expert engagement agreement or consent to an amendment thereto without the prior written consent of PWC

4. This Agreement may be terminated by either Party by giving ten (10) days written notice of termination to the other Party. Notice may be given to the other Party by either hand delivery or US Mail, postage prepaid. If the agreement is terminated by either Party, the amount to be reimbursed by PWC to the County shall be fifty percent (50%) of the amount paid by the County to the Expert for services rendered through the date of the termination of this Agreement, subject to the limitation set forth in Section 3 of this Agreement.

5. Neither this Agreement nor the Expert engagement agreement is intended to compel PWC to extend water service in the Gray's Creek area, which extension may be undertaken in PWC's sole discretion.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first written above.

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

SERVICE AGREEMENT

This Agreement, made this the ____ day of _____ 2018, by and between the County of Cumberland, a body politic and corporate of the State of North Carolina, hereinafter referred to as COUNTY, and Moorman, Kizer & Rietzel Inc., a consulting engineer with an office located at 115 Broadfoot Avenue, Fayetteville, NC, hereinafter referred to as ENGINEER.

WITNESSETH

WHEREAS, the COUNTY requires professional engineering services in connection with the Gray's Creek Water and Sewer District Preliminary Engineering Report; and

WHEREAS, the COUNTY has through a qualifications based process selected the ENGINEER to provide necessary surveying and engineering services; and

WHEREAS, the ENGINEER has represented that it can provide qualified services which will meet the needs of the COUNTY; and

WHEREAS, the services are of a technical nature and are temporary in character; and

WHEREAS, funds are available in the project budget for the performance of said services.

NOW THEREFORE, the parties agree to the following terms and conditions:

PURPOSE: The COUNTY agrees to purchase and the ENGINEER agrees to provide the necessary engineering services for this project as set forth below.

TERM: The term of this Agreement shall be from February ____, 2018 through, October 31, 2018, unless sooner terminated or extended by mutual agreement. The COUNTY may terminate this Agreement prior to the expiration of the above stated period if in the judgment of the COUNTY; The ENGINEER has completed all services required.

The ENGINEER failed or neglected to furnish or perform the necessary services to the reasonable satisfaction of the COUNTY.

The COUNTY shall have given the ENGINEER seven (7) days written notice of the COUNTY's intent to terminate this Agreement. The COUNTY will make all payments due the ENGINEER

for services rendered and/or expenses actually incurred up to and including the date of such notice of termination.

SERVICES: ENGINEER shall perform such expert and technical services as are indicated in the proposal from Moorman, Kizer & Reitzel, Inc., dated January 9, 2018, attached and incorporated herein. ENGINEER warrants that it shall perform such ancillary work as may be necessary to insure the effective performance of the services cited above. Insofar as practical, the ENGINEER shall cooperate with the operation schedule of the COUNTY, and with other personnel employed, retained, or hired by the COUNTY.

PRICE: Compensation for services rendered shall be time and materials at the hourly rate outlined in the proposal. The total contract price shall not exceed \$186,900.00 without the authorization from the County Manager.

PAYMENT: The COUNTY shall pay the ENGINEER within 15 working days of receipt of invoice.

BENEFIT: This Agreement shall be binding upon and it shall inure to the benefit of the parties, their legal representatives, successors, and assigns, provided that the provisions with respect to assignment and delegation are fully complied with.

ASSIGNMENT: The ENGINEER shall not assign all or any part its contract rights under this Agreement, nor delegate any performance hereunder, nor subcontract, without first obtaining the COUNTY's written approval.

COMPLIANCE WITH LAW: The ENGINEER agrees it shall comply with all laws, rules, regulations, and ordinances, proclamations, demands, directives, executive orders, or other requirements of any government or subdivisions thereof which now govern or may hereafter govern this Agreement, including, but limited to, the provisions of the Fair Labor Standards Act of 1938, equal employment laws, and any other applicable law.

AGENCY AND AUTHORITY: The COUNTY hereby designates the Engineering & Infrastructure (E&I) Director as its exclusive agent with respect to this Agreement. The E&I Director is authorized, on behalf of the COUNTY, to negotiate directly with the ENGINEER on all matters pertaining to this Agreement. The ENGINEER agrees that all of its dealings with the COUNTY in respect to the terms and conditions of this Agreement shall be exclusively with the E&I Director. Further, the ENGINEER specifically agrees that it shall not modify any of the specifications of any of the services subject to this Agreement except pursuant to the paragraph entitled MODIFICATIONS.

REMEDIES: If either party shall default with respect to any performance hereunder, it shall be liable for reasonable damages as provided by law and for all costs and expenses incurred by the other party on account of such default. Waiver by either party of any breach of the other's obligation shall not be deemed a waiver of any other or subsequent breach of the same obligation. No right or remedy of any party is exclusive of any other right or remedy provided or permitted

by law or equity, but each shall be cumulative of every other right or remedy now or hereafter existing at law or in equity, or by statute, and may be enforced concurrently or from time to time.

APPLICABLE LAW: This Agreement shall be governed by the laws of the State of North Carolina. The parties mutually agree that the courts of the State of North Carolina shall have exclusive jurisdiction of any claim arising under the terms of this Agreement with appropriate venue being Cumberland County.

NOTICES: Any notices to be given by either party to the other under the terms of this Agreement shall be in writing and shall be deemed to have been sufficiently given if delivered by hand, with written acknowledgment of receipt, or mailed by certified mail return receipt requested to the other party at the following addresses or to such other addresses as either party from time to time may designate in writing to the other party for receipt of notice:

ENGINEER:

Moorman, Kizer & Reitzel, Inc.
115 Broadfoot Avenue
Fayetteville, NC 28305

COUNTY:

Jeffery P. Brown, Engineering & Infrastructure Director
130 Gillespie Street
Fayetteville, NC 28301

Such notice, if mailed, shall be deemed to have been received by the other party on the date contained in the receipt.

SEVERABILITY: If any term, duty, obligation or provision of this Agreement should be found invalid or unenforceable, such finding shall not affect the validity of any other terms, duties, obligations, and provisions, which shall remain valid, enforceable and in full force and effect.

MODIFICATION: This Agreement may be modified only by an instrument duly executed by the parties or their respective successors.

MERGER CLAUSE: The parties intend this instrument as a final expression of their Agreement and as a complete and exclusive statement of its terms. No course of prior dealings between the parties and no usage of trade shall be relevant or admissible to supplement, explain, or vary any of the terms of this Agreement. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior Agreement shall not be relevant or admissible to determine the meaning of this Agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and an opportunity to make objection. No representations, understandings, or agreements have been made or relied upon making this Agreement other than those specifically set forth herein.

DISPUTE RESOLUTION: The parties must resolve any claim, dispute or other matter in contention arising out of, or relating to, this Agreement through the following procedure. The parties shall first negotiate in good faith to reach an equitable settlement to the dispute. If a negotiated settlement cannot be reached within 10 business days, the parties shall submit to mediation. The parties shall select a mediator, approved by either the North Carolina or federal courts and mutually agreeable to all parties in the dispute to conduct the proceedings which shall be held at the Owner's place of business. If the parties cannot select a mediator within 10 business days, then the Owner shall select a mediator (or, if the Owner is a party to the dispute, the

Cumberland County Trial Court Administrator). The mediator's cost shall be equally shared by all parties to the dispute. If a mediated settlement cannot be reached, the final recourse to the aggrieved party is legal action instituted and tried in the General Court of Justice of North Carolina under North Carolina Law with venue for trial being Cumberland County. No party shall have a right to resort to litigation until mediation shall first have occurred and not been successful.

INDEPENDENT CONTRACTOR: ENGINEER is an independent CONTRACTOR and not an agent, officer or employee of the COUNTY and shall have no authority to act as an agent of the COUNTY, nor enter any Agreement for or in behalf of the COUNTY. The relationship of ENGINEER with the COUNTY is as an "independent contractor" as that term is defined by the law of the State of North Carolina.

NON-APPROPRIATION CLAUSE: This agreement is subject to and contingent upon appropriation of funds for fiscal years subsequent to FY18.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the ____ day of February 2018 by their respective duly authorized representatives.

Ms. Cannon recognized PWC representatives Joe Glass and Mark Brown. Jeffery Brown, Engineering and Infrastructure Director, reviewed the background information and recommendation/proposed action for the Finance Committee as recorded above. Discussion followed about whether there needs to be declaration of a public health risk in areas affected by contamination and whether there is consensus to look at moving water throughout the County where feasible, including the Grays Creek area where the previous referendum failed. Ms. Cannon stated as part of the PER, different options for funding need to be developed for the Grays Creek area. Ms. Cannon also stated for any person that has a well that is tested above the 140 parts per trillion, it is a health issue. Mr. Holder stated with contaminated and uncontaminated parcels being all over the place, coupled with the fact that the edge of contamination is not known, he does not think there is enough to make a declaration without getting more information. Ms. Cannon stated it may be premature. Commissioner Keefe asked Mr. Brown to include a sunset in the agreement. Commissioner Boose noted the dispute resolution of the service agreement and stated he did not want the Cumberland County Trial Administrator to pick the mediator for the County. Consensus was for the County Attorney to pick the mediator.

MOTION: Commissioner Faircloth moved to approve the following recommendations and forward them to the Board of Commissioners for its consideration at their February 19th meeting:

1. Approve the Professional Services Agreement with Moorman, Kizer & Reitzel, Inc. in the amount of \$129,330, with the caveat that the County Attorney pick the mediator for the County and a time limit be put in the contract.
2. Approve the Interlocal Agreement with the Public Works Commission contingent on the approval of the agreement by the County Attorney.
3. Approve Budget Ordinance Amendment #B180656 in the amount of \$129,330 for the completion of a Preliminary Engineering Report for the Grays Creek Water & Sewer District.

SECOND: Commissioner Adams

VOTE: UNANIMOUS (3-0)

6. FINANCIAL UPDATE OF DECREASING PROPERTY VALUES ASSOCIATED WITH THE ATLANTIC COAST PIPELINE AND PROPERTIES AFFECTED BY THE CHEMOURS CONTAMINATION

BACKGROUND:

We have heard that having the ACP contiguous or running through properties will significantly reduce the value of these properties. There is also credible evidence that owning a property that shows contamination of GEN-X will also decrease the value of a property. Has our tax department made any assessment of these decreases and the affect that it will have on property tax revenue? Furthermore, what consideration or appeal process does a homeowner have to submit documentation that their property values have been reduced?

RECOMMENDATION/PROPOSED ACTION:

Our tax office set up an appeals process for homeowners affected by either of these situations and understand that the values of property when assessed last year did not take into consideration either of these matters.

A. UPDATE ON PROPERTY VALUES AFFECTED BY THE ATLANTIC COAST PIPELINE

BACKGROUND:

A concern about how property values might be impacted by easements for the Atlantic Coast Pipeline has been expressed.

The Tax Office utilizes a document, the Schedule of Values to provide a consistent basis or guide for all facets of property valuation. The value adjustment is driven by the easement itself, not the intended use of the easement. This is the case for all types of easements such as other utility easements, water and sewer, etc. The methodology for easement value adjustments is a standard practice.

The following is the process the Tax Office uses in reviewing value adjustments for easements:

- A survey map of the permanent right of way is submitted to the tax office. This map is attached to the deed where the Atlantic Coast Pipeline bought the easement rights from the owner.
- The tax office appraiser will reduce the value of the land for the permanent easement portion only.
- Tax value *may* further be impacted by the location of the easement on the land – if the easement runs through the middle of the property versus the edge of the property

The easement size, and to some degree location, is what is considered in assessing the value, not the use of the easement. There is not an adjustment based on the usage of the easement.

RECOMMENDATION/PROPOSED ACTION:

This presentation was provided for information purposes only. No action is required.

Joe Utley, Tax Administrator, reviewed the background information recorded above. Mr. Utley stated he would expect land values as a whole to go down for those properties in the path of the pipeline and although appraisers are working those properties, figures are not yet available. In response to a question posed by Commissioner Adams, Mr. Utley explained the appeals process through the Equalization and Review Board and stated the board is currently accepting appeals. Mr. Utley stated individuals will have until June 29 to appeal; however, the notice states they have 15 days to appeal. Mr. Utley stated should anyone receive a notice on June 25, they will still have the 15 days to appeal.

B. UPDATE ON PROPERTY VALUES AFFECTED BY THE CHEMOURS (GENX) CONTAMINATION

BACKGROUND:

In June 2017, Chemours disclosed that it had been discharging Gen X into the Cape Fear River for decades from its Fayetteville Plant, located in Bladen County. Testing has been conducted since this past fall and varying levels of contamination have been found in private wells within Cumberland County and the surrounding areas. The testing continues to expand and the number of properties that may be affected continues to change.

The Tax office has received 2 appeals so far concerning the potential effect on value due to the Gen X contamination. One appeal consists of 30 vacant lots and the other appeal is an improved property in the Point East neighborhood. We have had 8 other taxpayers indicate they will potentially appeal. Additionally, we have fielded a limited number of phone calls. Some of the appeals and/or potential appeals are based on positive test results from the state, while others are based on the contamination in general.

We contacted Bladen, Robeson and New Hanover counties to find out if they have had appeals or if they were going to make property value adjustments due to this Gen X issue. As of last week, none the counties indicated they were going to make valuation adjustments.

There is an appeals process in place for all taxpayers to request an adjustment to their property value. This process is open to any taxpayer who believes the contamination from Gen X has affected their property value. As with all appeals, we ask the appellant to provide appropriate documentation supporting their reason for adjustment. Our office will accept documentation provided by the taxpayer and would give priority consideration to test results from the state or any other licensed environmental expert that deems the property to be contaminated.

Appeals to the Board of Equalization and Review are currently being accepted and will continue to be accepted until the board adjourns on June 29th. Appeals after the adjournment date cannot be accepted for the current tax year; however, they can be accepted for the upcoming year.

Tax Administration will be working with Sally Shutt, Assistant County Manager to develop a communications plan to ensure the residents of the affected areas are aware of the appeals process and the timeframes involved.

RECOMMENDATION/PROPOSED ACTION:

This presentation was provided for information purposes only. No action is required.

Mr. Utley reviewed the background information recorded above and stated the other appeal involving an improved property in the Point East neighborhood turned out not to be a contamination appeal. Mr. Utley also stated since February 9, 12 other appeals were received the Marsh Wood Lake area. Mr. Utley stated the International Association of Assessing Officers set standards for how tax offices operate and there is a standard for properties which helps treat people equitably. Mr. Utley also stated if an individual comes to the office in October after the board adjourns and has a documentation of a test conducted in March 2017 or 2018, an adjustment will still be made for their value. Mr. Utley responded to questions.

7. UPDATE OF HEALTH BENEFITS OF CUMBERLAND COUNTY EMPLOYEES AND POSSIBLE ALTERNATIVE TO OUR CURRENT PROGRAM

BACKGROUND:

Last year before budget season, a number of commissioners requested that the staff research alternate health benefit programs that will continue to give Cumberland County employees a high level of health care with more stable premiums, greater flexibility and additional options for savings and convenience. At that time, it was determined that we were too close to the budget and the renewal period. In an effort to collect information, a RFP was drafted and there were responses from other agencies interested in providing health benefits services.

RECOMMENDATION/PROPOSED ACTION:

Update on current status of Employee Health benefits, status of the RFP results and recommendations by management on a new program or merging with other groups for cost savings.

A. UPDATE ON CUMBERLAND COUNTY HEALTH BENEFITS AND BROKER/CONSULTANT ARRANGEMENT

BACKGROUND:

At the August 3, 2017 Finance Committee, a request to move forward to solicit Request for Proposals (RFP) for Employee Benefits/Insurance Broker & Consultant was approved. The RFP responses were not received until mid-September at which time staff began an initial

review. As you may recall, it was at this time that questions arose about the structure of one of the health insurance options offered to employees and all RFPs were rejected. At the end of November 2017, the Board was advised to “unwind” that option and the Board engaged Chernoff Diamond (Cherry Bekaert) to serve as the broker / consultant until a complete resolution could be obtained.

In the four weeks following November 20, Chernoff Diamond was entirely focused on the “unwind” process as this had to be accomplished before December 31, 2017. Then the group was able to focus on the details of broker transition. All relationships previously brokered by Mark III on behalf of Cumberland County had to be transitioned to Chernoff Diamond. The brokered agreements include not only BCBS but all other voluntary plans offered to employees (dental, short-term disability, etc.).

As is evident, Chernoff Diamond has had shy of 2 months to delve into and learn the structure put in place by Mark III, begin to understand our claims and history, and begin formulating a path forward. Chernoff Diamonds’ typical approach is more from a strategic planning process which typically includes financial considerations and Board objectives as opposed to a single focus on claims.

There remain aspects of the health benefits program in review. Realizing that decisions need to be made regarding program design for FY19 and future years, Chernoff Diamond representatives will be at the March 1, 2018 Finance Committee meeting. At that meeting they plan to discuss –

- Compliance audit of program structure and incentives
- Strategic plan for health benefits – what are the Board’s primary objectives?
- Challenges that have arisen during the transition
- Ways to modernize the process (benefits administration)

RECOMMENDATION/PROPOSED ACTION:

No action needed. Consensus on primary objectives can be provided in order to incorporate into the March 1 presentation.

Ms. Cardinali reviewed the background recorded above and stated she discussed with Chernoff Diamond that there is a strong desire to have a financially strong and sound fund and approach to health insurance and not just a reactive approach to claims. Ms. Cardinali requested input from the committee. Commissioner Faircloth asked about the status of Cape Fear Valley’s input. Ms. Cardinali stated this is just the piece to get to open enrollment for employees for next year and the next piece after the plan is in place is to bring back that RFP process at which time the County could reach out to Cape Fear Valley. In response to a question from Commissioner Faircloth, Ms. Cardinali stated the original goal was to have this in place by July 1 but due to unexpected challenges encountered by Chernoff Diamond, it may take more time to be able to enter into a healthy relationship with the next broker. A brief discussion followed. Request was for Cape Fear Valley to attend the March 1 or March 15 meeting.

B. MONTHLY HEALTH INSURANCE REPORT

BACKGROUND:

Claims for the December 2017 are up 20.2% from December 2016 (month to month). To provide some perspective on the claims, below is the 6-month average for the past 5 fiscal years. This average represents the average claims for July – December of each fiscal year.

Average claims per fiscal year for July – December:

FY13 \$1,214,727

FY14 \$1,243,501

FY15 \$1,584,932

FY16 \$1,763,110

FY17 \$1,376,609

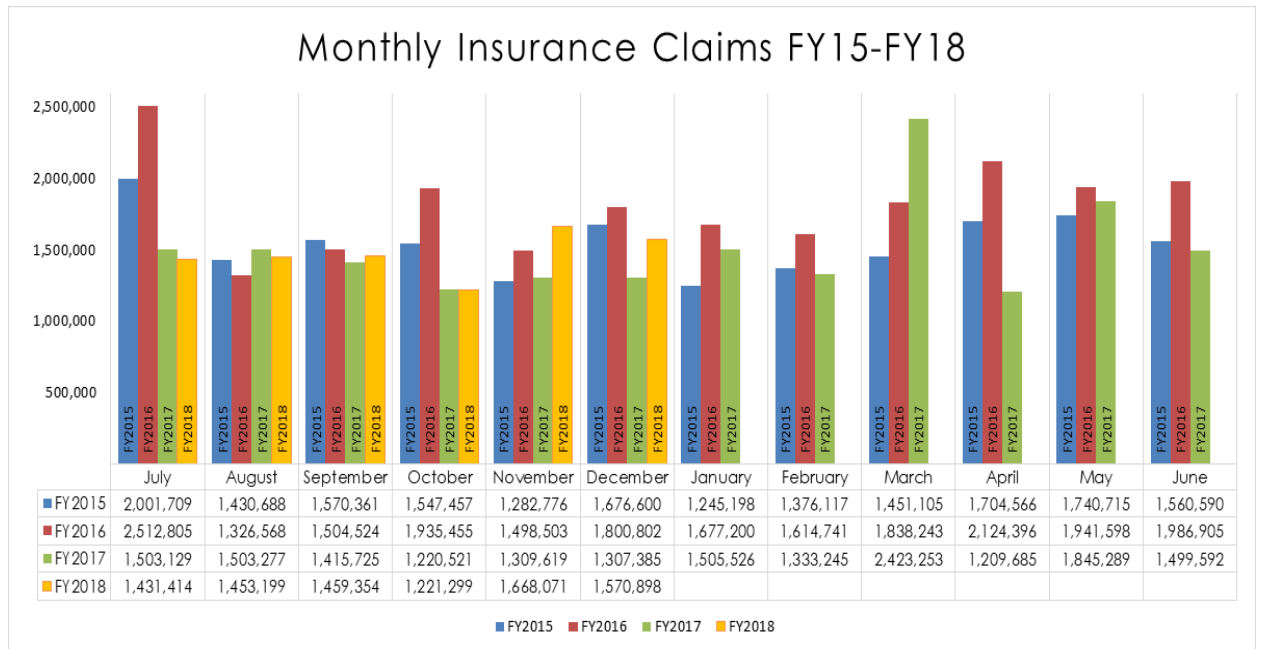
FY18 \$1,467,373

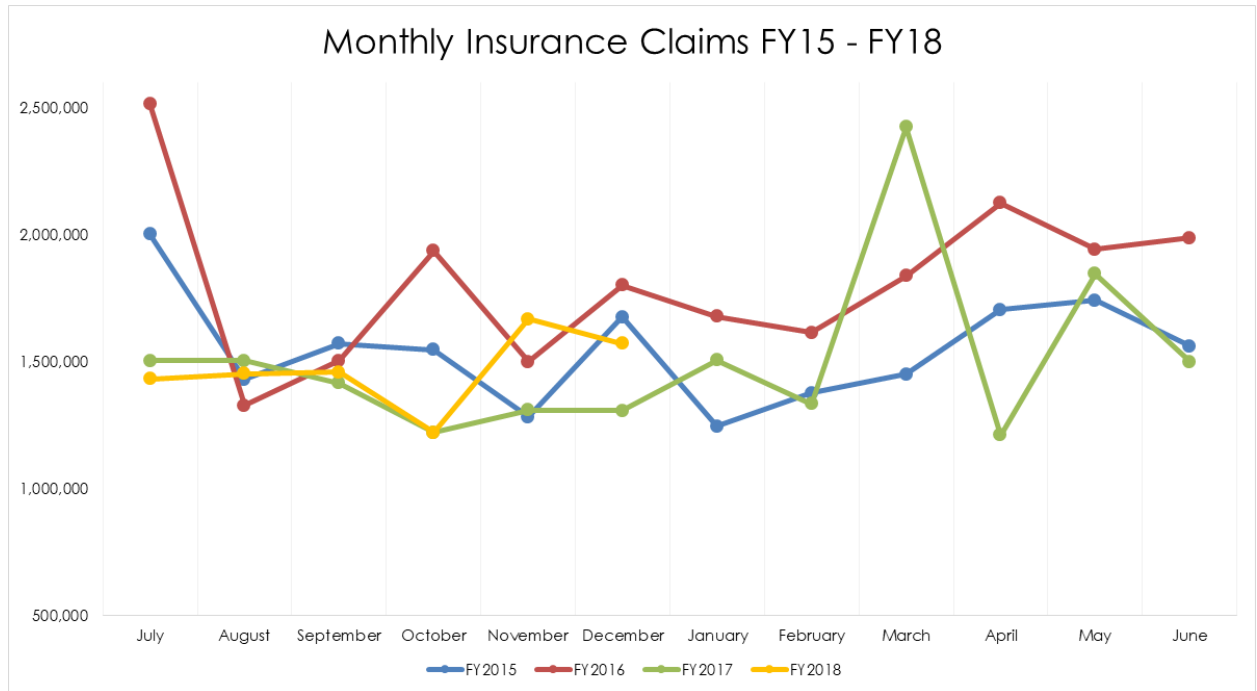
Graphs are provided as an aid to the analysis.

RECOMMENDATION/PROPOSED ACTION:

No action needed – for information only.

Ms. Cardinali briefly reviewed the background information recorded above and the following graphs. Ms. Cardinali stated there are a couple of high cost claimants so she expects some of the claims may rise. Ms. Cardinali stated BCBS has kept the County up to date on that information so the County is watching it as well.





8. CONSIDERATION OF INTERNAL AUDIT PLAN

BACKGROUND:

At the June 15, 2015 Board of Commissioner's meeting, an Audit/Finance Committee Charter was adopted. The Charter requires that an audit plan be submitted to the Audit Committee for approval. The Audit/Finance Committee approved a July – December 2017 audit plan at the June 8, 2017 Finance Committee meeting.

A summary of audits/projects completed during the July – December time period and a plan for the January - June 2018 time period are being submitted at this time. In June a plan for the first half of fiscal year 2019 will be submitted.

RECOMMENDATION/PROPOSED ACTION:

Staff recommends accepting the summary of completed July – December 2017 audits/projects report and approving the January – June 2018 Internal Audit Plan.

Cumberland County Internal Audit
Completed Audits
July – December 2017

<u>Audit/Project</u>	<u>Department</u>
Physical inventories	Central Maintenance Facility (CMF) Solid Waste garage Employee Pharmacy Health Department Pharmacy Health Department supply room

Inventory account reconciliations	CMF Solid Waste Employee Pharmacy
Bank accounts	Sheriff – Detention Center Social Services
Special Review of Women’s Programs	Health Department
Cash counts	Sample of depts with petty cash or change funds
Expenditure of County Funds	Sample of community agencies & volunteer fire departments
Schedule of Federal & State Expenditures	For FY 2016-17 audit
Single Audit with Cherry Bekaert, CPA firm	For FY 2016-17 audit (Aug 2017 –Oct 2017)
Review of CMF Inventory System	Central Maintenance Facility (CMF)
Purchase Card Review	Finance
Cumberland County Internal Audit Audit Plan January – June 2018	
Audit/Project	Department
Physical inventories	Central Maintenance Facility (CMF) Solid Waste garage Employee Pharmacy Health Department supply room
Cash Counts change funds	Sample of departments with petty cash or
Expenditure of County Funds	Sample of community agencies
Follow Up Audit of Women’s Clinics	Health Department
Audit of internal controls	Solid Waste
Accts Receivable/Expenditure review	Animal Control
Sales Tax Distribution Expenses	Board of Education

Tammy Gillis, Director of Internal Audit and Wellness Services, reviewed the background information, summary of completed July – December 2017 audits/projects and the January – June 2018 Internal Audit Plan recorded above.

MOTION: Commissioner Keefe moved to accept the summary of completed July – December 2017 audits/projects report and approve the January – June 2018 Internal Audit Plan.
SECOND: Commissioner Faircloth
VOTE: UNANIMOUS (3-0)

9. CONSIDERATION OF STATEWIDE OPIOID LITIGATION PROCESS

BACKGROUND:

As a measure of the extent of the opioid crisis in Cumberland County, I have included data on opioid prescription rates and opioid poisoning deaths which is posted on the NCACC's website. The data shows, that although Cumberland County ranks in the bottom one-third of all counties for opioid pills per resident and opioid prescriptions per resident, it still had the fifth highest number of opioid poisoning deaths among all counties in 2015, the last year for which data has been published on this website. The rankings for all counties with more than 30 opioid poisoning deaths for 2015 were:

Mecklenburg	39 deaths
Wake	38 deaths
Forsyth	33 deaths
New Hanover	32 deaths
Cumberland	31 deaths
Burke	30 deaths

Based on the relative populations, it might be expected that Cumberland would rank in the top six counties for opioid poisoning deaths; however; this result is surprising with Cumberland's low ranking in the prescription use data.

The NCACC has been very active in assisting counties with the response to the opioid crisis. Staff at the NCACC interviewed a number of national law firms and groups of national law firms and selected two of those groups of law firms to make presentations to the county attorneys at a forum in November, 2017. Cumberland County has received proposals from each of those groups. A synopsis of each proposal follows:

The McHugh Fuller Group:

The group of national firms and local counsel for which Michael Jay Fuller, Jr., Esq., has been designated lead counsel are fully identified in the proposed contract. Local attorneys William O. Richardson, Esq., and Terry Hutchens, Esq., have been identified as the contact attorneys for Cumberland County. This group will sue the manufacturers and distributors. The abatement of the opioid epidemic as a public nuisance is one of many causes of action this group will pursue. That is the reason they require the counties they represent to adopt a resolution declaring the opioid crisis a public nuisance which must be abated.

This group's contract for legal representation provides for attorney's fees as a 25% contingency of the gross amount of any settlement/resolution/judgment in favor of the client and for

reimbursements of all costs and expenses of the litigation from the balance. I have requested clarification on two issues with this contract. One is with respect to the language on how the attorney's fee and costs are paid if the relief is equitable in nature, and the other is whether they will provide representation against any claim for sanctions or a counterclaim. I have also asked for a modification for some of the language in the resolution to eliminate any findings by the Board that are not substantiated.

I received communication from one of the lawyers in the group shortly before this memo had to be submitted for the agenda and he confirmed that my questions about the contract and the resolution would be answered.

The Crueger Dickinson Group:

The group of national firms and local counsel for which Erin Dickinson, Esq., has been a spokesperson in N.C. are fully identified in the proposed contract which is attached. Although this group has engaged Janet Ward Black, Esq., of Greensboro as local counsel in North Carolina, they have agreed to engage a Cumberland County attorney as local counsel for Cumberland County. This group intends to only sue the manufacturers which are identified in the proposed contract. They have not asked for a declaration of public nuisance but have asked for a resolution in support of the litigation.

This group's contract for legal representation provides for attorney's fees as a 25% contingency of the gross amount of any settlement/resolution/judgment in favor of the client and for reimbursements of all costs and expenses of the litigation from the balance. This group's contract does not create a fee unless there is a monetary recovery acceptable to the county. This group will represent the county at no additional fee in any claim for sanctions or a counter-claim.

I requested a modification of some of the language in the resolution and that was accepted but I had not received the new draft by the time of submitting this memo for the agenda.

Under either of these contracts, the county could be liable for damages or attorney fees to the defendants if the defendants prevailed on any motion for sanctions or a counterclaim. Each of these groups of firms is exceptionally qualified to pursue this litigation.

RECOMMENDATION/PROPOSED ACTION:

I expect to have the answers to my questions about the contract with the McHugh Fuller Group, the identity of the local counsel for the Crueger Dickinson Group, and the final language for the resolutions requested by both groups at the time of the Committee meeting. That information is necessary to fairly compare these proposals.

Of course, the Board may elect not to use either of these groups and seek other counsel.

Rick Moorefield, County Attorney highlighted the background information recorded above to include issues that remain to be resolved with the national firms, the McHugh Fuller Group and the Crueger Dickinson Group.

Commissioner Adams asked whether the CDC data takes in all of Ft. Bragg, Womack, the Veterans Hospital and community retirees. Mr. Moorefield stated it does not say on the data sheet but with respect to prescriptions and pills, the data covers distribution points. Commissioner Adams stated should federal data be available, it will be important to local counsel because it will likely jettison the County up much higher.

Mr. Moorefield stated it is likely that these cases will be settled globally but no matter where these cases are filed for individual counties, they will all be heard in the northern district of Ohio by a single judge. Mr. Moorefield stated following any settlement, each county, city and/or state will have to go through a process to retrieve those funds.

Discussion followed.

MOTION: Commissioner Adams moved to table until the March 1 Finance Committee meeting.

SECOND: Commissioner Faircloth

VOTE: UNANIMOUS (3-0)

10. MONTHLY FINANCIAL REPORT

	FY16-17	FY17-18	FY17-18	YTD ACTUAL	PERCENT OF	
REVENUES	AUDITED	ADOPTED BUDGET	REVISED BUDGET	AS OF DECEMBER 31, 2017	BUDGET TO DATE	*
Ad Valorem Taxes						
Current Year	\$ 156,131,527	\$ 160,312,162	\$ 160,312,162	\$ 118,783,375	74.1%	(1)
Prior Years	1,046,732	1,121,000	1,121,000	730,393	65.2%	
Motor Vehicles	17,683,864	18,070,242	18,070,242	7,447,574	41.2%	(2)
Penalties and Interest	650,368	667,602	667,602	203,967	30.6%	
Other	1,018,563	930,279	930,279	470,065	50.5%	
Total Ad Valorem Taxes	176,531,054	181,101,285	181,101,285	127,635,374	70.5%	
Other Taxes						
Sales	41,517,943	41,760,036	41,760,036	10,617,685	25.4%	(3)
Real Estate Transfer	1,091,362	700,000	700,000	504,772	72.1%	
Other	1,114,408	1,111,500	1,111,500	322,609	29.0%	
Total Other Taxes	43,723,713	43,571,536	43,571,536	11,445,066	26.3%	
Unrestricted & Restricted Intergovernmental Revenues	75,613,483	67,300,253	70,367,342	21,836,590	31.0%	(4)
Charges for Services	13,832,010	12,056,608	12,078,008	4,726,823	39.1%	
Other Sources (includes Transfers In)	8,945,521	6,988,890	7,028,020	957,942	13.6%	(5)
Proceeds Refunding Bonds	-	-	23,005,000	23,005,000	100.0%	(6)
Premium on COPS Sold	-	-	4,285,558	4,285,557	100.0%	(6)
County Closing Contribution	-	-	254,736	254,735	100.0%	(6)
Lease Land CFVMC	3,714,637	3,714,637	3,714,637	3,474,492	93.5%	(7)
Total Other	12,660,158	10,703,527	38,287,951	31,977,726	83.5%	
Total Revenue	\$ 322,360,418	\$ 314,733,209	\$ 345,406,122	\$ 197,621,579	57.2%	
Fund Balance Appropriation		8,889,652	8,236,525	-	0.0%	(8)
Total Funding Sources	\$ 322,360,418	\$ 323,622,861	\$ 353,642,647	\$ 197,621,579	55.9%	

				YTD ACTUAL		
	FY16-17	FY17-18	FY17-18	EXPENDITURES AS OF	PERCENT OF	
DEPARTMENTS	AUDITED	ADOPTED BUDGET	REVISED BUDGET	DECEMBER 31, 2017	BUDGET TO DATE	**
Governing Body	\$ 591,731	\$ 617,587	\$ 617,587	\$ 309,117	50.1%	
Administration	2,515,558	1,501,201	1,501,201	670,273	44.6%	
Public Affairs/Education	76,879	497,199	497,199	255,497	51.4%	
Human Resources	30,245	828,896	828,896	378,708	45.7%	
Print, Mail, and Design	754,908	875,345	875,345	357,468	40.8%	
Court Facilities	55,786	129,370	168,010	58,953	35.1%	
Facilities Maintenance	1,936,136	2,009,030	2,110,875	636,738	30.2%	
Landscaping & Grounds	606,364	607,577	607,577	276,986	45.6%	
Carpentry	231,715	234,884	234,884	91,519	39.0%	
Facilities Management	1,238,266	1,267,781	1,267,781	588,836	46.4%	
Public Buildings Janitorial	721,041	710,946	710,946	324,975	45.7%	
Central Maintenance	798,075	672,386	672,386	309,640	46.1%	
Information Services	3,388,444	3,958,479	4,067,447	1,914,680	47.1%	
Board of Elections	1,180,015	2,237,762	2,237,762	542,548	24.2%	(1)
Finance	1,205,572	1,201,225	1,201,225	547,140	45.5%	
Legal	668,776	813,554	813,554	319,694	39.3%	
Register of Deeds	2,092,298	2,321,099	2,761,865	903,661	32.7%	
Tax	5,567,709	5,589,154	5,620,154	2,318,861	41.3%	
Debt Service	23,400,669	21,464,283	21,466,328	15,291,222	71.2%	
General Government Other	3,828,293	4,237,882	4,331,276	1,336,653	30.9%	
Sheriff	47,212,707	50,250,550	50,503,775	21,599,693	42.8%	
Emergency Services	3,064,405	3,320,934	3,392,791	1,529,072	45.1%	
Criminal Justice Pretrial	434,987	426,673	426,673	173,918	40.8%	
Youth Diversion	325	25,000	25,000	784	3.1%	(2)
Animal Control	2,932,986	2,922,717	2,947,717	1,360,348	46.1%	
Public Safety Other (Medical Examiners, NC Detention Subsidy, etc.)	1,007,220	1,075,666	1,075,666	399,140	37.1%	
Heath	22,269,462	22,506,054	22,987,565	9,906,322	43.1%	
Mental Health	3,148,761	5,452,507	3,281,366	2,186,543	66.6%	
Social Services	71,524,059	66,425,182	67,141,445	28,763,119	42.8%	
Veteran Services	\$ 371,189	\$ 385,725	\$ 385,725	\$ 184,990	48.0%	
Child Support	\$ 4,893,727	\$ 5,044,200	\$ 5,044,200	\$ 2,177,890	43.2%	
Spring Lake Resource Administration	31,524	34,332	34,332	12,043	35.1%	
Library	11,105,397	10,530,428	10,761,396	4,847,110	45.0%	
Stadium Maintenance	110,288	117,296	117,296	36,632	31.2%	
Culture Recreation Other (Some of the Community Funding)	312,816	268,069	268,069	143,967	53.7%	
Planning	3,077,126	3,446,758	3,455,653	1,366,562	39.5%	
Engineering	439,678	510,090	2,434,498	244,040	10.0%	(3)
Cooperative Extension	570,083	705,596	705,596	228,226	32.3%	
Location Services	357,095	447,221	447,221	149,214	33.4%	
Soil Conservation	141,234	136,400	135,920	66,570	49.0%	
Public Utilities	87,442	110,270	124,474	48,576	39.0%	
Economic Physical Development Other	20,000	20,000	20,000	20,000	100.0%	(4)
Industrial Park	3,296	23,148	23,148	474	2.0%	(5)
Economic Incentive	420,423	548,418	710,918	28,749	4.0%	(6)
Water and Sewer	-	250,000	250,000	-	0.0%	(7)
Education	91,394,940	93,341,404	93,341,404	46,034,071	49.3%	
Other Uses:						
Transfers Out	2,264,613	3,522,583	3,465,252	86,367	2.5%	(8)
Refunding of 2009A and 2011B LOBS	-	-	27,543,249	27,530,230	100.0%	(9)
TOTAL	\$ 318,084,263	\$ 323,622,861	\$ 353,642,647	\$ 176,557,819	49.9%	
	FY16-17	FY17-18	FY17-18	EXPENDITURES AS OF	PERCENT OF	
Expenditures by Category	UNAUDITED	ADOPTED BUDGET	REVISED BUDGET	DECEMBER 31, 2017	BUDGET TO DATE	
Personnel Expenditures	\$ 131,620,131	\$ 136,744,346	\$ 135,622,863	\$ 58,253,028	43.0%	
Operating Expenditures	158,133,695	157,914,300	161,059,225	73,795,127	45.8%	
Capital Outlay	2,118,869	3,460,456	3,968,837	1,167,500	29.4%	(10)
Debt Service	23,946,955	21,981,176	21,983,221	15,725,567	71.5%	
Refunding of 2009A and 2011B LOBS	-	-	27,543,249	27,530,230	100.0%	
Transfers To Other Funds	2,264,613	3,522,583	3,465,252	86,367	2.5%	
TOTAL	\$ 318,084,263	\$ 323,622,861	\$ 353,642,647	\$ 176,557,819	49.9%	

Fiscal Year 2018 - December Year-to-Date Actuals

Additional Detail

General Fund Revenues

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- (1) **Current Year Ad Valorem** 74.1% - the bulk of revenues are typically recorded between November - January.
- (2) **Motor Vehicles** 41.2% - YTD Actual reflects 5 months of collections.
- (3) **Sales Tax** 25.4% - YTD Actual reflects three months of collections.
- (4) **Unrestricted/Restricted Intergovernmental** Revenues 31.0% - lag in revenue is typically one month.
- (5) **Other Sources** (includes Transfers In) 13.6% - Rental income makes up majority of actual receipts. The majority of remaining balance is budgeted as a transfer from the School Fund into fund the Board of Ed debt payment toward year-end.
- (6) **Proceeds**, Premium, Closing 100% - COPS/LOBS refunding of \$23M closed in August 2017. (Correlates with item (9) on report of expenditures.)
- (7) **Lease Land CFVMC** 93.5% - typically paid in the beginning of the fiscal year. Staff are following up on the balance remaining.
- (8) **Fund Balance Appropriation** 0% - Direct entries are not made to fund balance throughout the fiscal year.

General Fund Expenditures

**

- (1) **Board of Elections** 24.2% - new voting equipment budgeted for \$809,045 has not yet been purchased.
- (2) **Youth Diversion** 3.1% - expenditures for this program tend to occur later in the fiscal year. Conference scheduled during the month of December.
- (3) **Engineering** 10.0% - Revised budget reflects \$1.2M addition for stream debris removal grant for which no expenditures have been incurred. A budget revision was completed in December to move this grant into Engineering as that department is handling the projects.
- (4) **Economic Physical Development** 100% - NC Southeast contribution has been paid in full.
- (5) **Industrial Park** 2.0% - maintenance at Cedar Creek Industrial Park has not yet been completed.
- (6) **Economic Incentive** 4% - economic incentives are budgeted at 100% of agreements but are not paid unless/until the company complies.
- (7) **Water and Sewer** 0% - Funds budgeted for Overhills W&S have not yet been expended.
- (8) **Transfers Out** 2.5% - transfers out typically occur near year-end.
- (9) **Refunding** of 2009A and 2011B LOBS 100% - refunding of \$23M closed in August 2017. (Correlates with item (6) on report of revenues.)
- (10) **Capital Outlay** 29.4% - Board of Elections capital equipment and FTCC capital outlay budgeted but not incurred or encumbered makes up the majority of unutilized budget.

MOTION: Commissioner Faircloth moved to accept the monthly financial report.
SECOND: Commissioner Adams
VOTE: UNANIMOUS (3-0)

There being no further business, the meeting adjourned at 3:05 p.m.