

CUMBERLAND COUNTY FINANCE COMMITTEE  
COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564  
MARCH 1, 2018 – 8:30 AM  
REGULAR MEETING MINUTES

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

OTHERS: Commissioner Jeannette Council  
Commissioner Charles Evans  
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  
Jeffery Brown, Engineering and Infrastructure Director  
Julean Self, Human Resources Director  
Julie Crawford, Benefits Coordinator  
Deborah Shaw, Budget Analyst  
Heather Harris, Budget Analyst  
Tammy Gillis, Director of Internal Audit and Wellness Services  
Renee Gleaton, Internal Audit  
Candice H. White, Clerk to the Board

Commissioner Keefe called the meeting to order.

1. CONSIDERATION OF APPROVAL OF MINUTES
  - A. FEBRUARY 1, 2018 REGULAR MEETING
  - B. FEBRUARY 15, 2018 SPECIAL MEETING

MOTION: Commissioner Faircloth moved to approve the February 1, 2018 regular meeting minutes and the February 15, 2018 special meeting minutes.

SECOND: Commissioner Adams

VOTE: UNANIMOUS (3-0)

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

BACKGROUND:

At the February 15, 2018 special meeting of the Finance Committee, the Committee moved the consideration of the current school funding agreement forward to the March 1, 2018 Committee

meeting. As you may recall, 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 \$0.36 on the property tax rate being distributed to CCSS or \$80,362,412 [see option #3 below]. The agreement also provides that actual taxes collected above the budget are split 75% (County) / 25% (CCSS).

Management proposed freezing the 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. This recommendation led to discussion of additional options that the Committee may wish to explore.

Summary of potential options:

1. Freeze funding for 2 years at **\$79,463,109**. This represents a 1.1% reduction from the hold harmless level of FY18.
2. Enter into 3-year funding agreement based on funding formula of existing agreement:

Note: Amount is what CCSS *would have* received in FY18 without hold harmless clause.

Current formula =	.3406 cents of ad valorem tax rate	.3406 / .7990 = 42.63%
Tax revenue FY18 budget		CCSS funding
\$178,382,404	42.63%	<b>\$76,044,419</b>

3. Enter into 3-year funding agreement based on funding formula of FY18 that held CCSS harmless for reduced property tax values:

FY17 Tax Rate	CCSS Share	FY18 Tax @ Revenue Neutral	CCSS Share @ 46.03%
.740	.3406 / .740 = 46.03%	\$174,587,033	<b>\$80,362,412</b>

RECOMMENDATION/PROPOSED ACTION:

Management recommends renewing the annual CCSS funding agreement based on one of the options from prior Committee discussions with no additional distribution of taxes collected above budget.

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Melissa Cardinali, Assistant County Manager, referenced the background information recorded above and provided the following presentation on a funding options update. Ms. Cardinali stated the belief of county and school system staff is that the funding option should be measurable, sustainable and predictable. Ms. Cardinali stated the FY17 number of \$79,463,109 for the funding option based on DPI allotted ADM was chosen because it was the last funding formula before revaluation and results in \$1,575 funding per allotted ADM. Ms. Cardinali stated the ADM number comes out in March, so it is available for budget purposes. Ms. Cardinali stated this formula would be used for FY19, FY20 and FY21.

### Funding Options Update

- Continued to receive feedback
- Continued discussions with CCSS management
- Common themes –
  - School enrollment
  - Stable formula for school funding despite unstable tax values
  - Measurable
  - Sustainable
  - Predictable
- Funding option based on DPI Allotted ADM–
  - FY17 actual funding used as base
    - \$79,463,109
    - Last funding before revaluation
  - Allotted ADM for FY17 per DPI and validated by NCACC
    - 50,459
  - $\$79,463,109 / 50,459 = \$1,575$  funding per Allotted ADM
- Formula for FY19, FY20, and FY21
  - Allotted ADM per DPI multiplied times \$1,575 = Annual allocation for CCSS
- Funding option based on DPI Allotted ADM–
  - FY17 actual funding used as base
    - \$79,463,109
    - Last funding before revaluation
  - Allotted ADM for FY17 per DPI and validated by NCACC
    - 50,459
  - $\$79,463,109 / 50,459 = \$1,575$  funding per Allotted ADM
- Formula for FY19, FY20, and FY21
  - Allotted ADM per DPI multiplied times \$1,575 = Annual allocation for CCSS

Ms. Cardinali stated as a point of reference, had those numbers been used for this fiscal year the funding for schools would have been \$79,513,875 which is about \$51,000 more than the schools received in FY17, so it would not have been a reduction. Ms. Cardinali stated she would anticipate based on budget that as the ADM goes up, the funding allotment would also go up. Ms. Cannon stated this option also takes out the complexity of basing school funding on property tax values.

Commissioner Faircloth asked whether the hold harmless could be done away with if the formula is negotiated. Ms. Cardinali responded in the affirmative. Commissioner Faircloth stated he favored leaving the percentage of taxes the same and doing away with the hold harmless for three years.

Commissioner Adams stated if you look at the DPI formula, the schools with high poverty will fail and commissioners cannot continue to let those schools fail or not meet the criteria for the state's grading. Commissioner Adams also stated he did not think the school system's banking funds in fund balance was a good use of those funds. Commissioner Faircloth stated at present school enrollment is not increasing and is likely decreasing, and the problem he sees with ADM is that there could be a decrease in funding from the County after the first year which could result in budget issues for the schools. Commissioner Lancaster stated another concern is related to students who may start the school year in a charter or private school and end up coming back into the public-school system. Ms. Cardinali stated the allotted numbers are distributed by DPI specifically for budget purposes and are typically a little higher than the actual numbers that are reported at year end. Following discussion, Commissioner Adams asked staff to report back during budget to see the effect of the formula and to determine whether adjustments need to be made.

**MOTION:** Commissioner Adams moved to approve the funding option presented at today's meeting.

**SECOND:** Commissioner Keefe

**VOTE:** PASSED (2-1) (Commissioners Adams and Keefe voted in favor; Commissioner Faircloth voted in opposition)

### 3. CONSIDERATION OF HEALTH INSURANCE PLAN FOR FY18-19

#### BACKGROUND:

Chernoff Diamond will attend the March 1, 2018 committee meeting to discuss what has transpired since their engagement in November 2017 as well as provide recommendations for the FY19 plan.

#### RECOMMENDATION/PROPOSED ACTION:

Consideration of FY19 plan recommendations as presented.

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Ms. Cardinali referenced the County's migration to the current arrangement with Cherry Bekaert and Chernoff Diamond, and introduced Kyle Frigon, Director of Benefits and Risk Management for Cherry Bekaert, and Kevin Quinn, Partner with Chernoff Diamond.

Mr. Frigon reviewed the progress to date and timeline for high level projects outlined in the Executive Summary below. Mr. Frigon stated claims reports are being reviewed and underwriters are working to be sure the numbers are accurate, projected and predictable. Mr. Frigon stated a market study is being conducted for ancillary coverages to be sure products and benefits paid for

by the employees are the best and most efficient available. Mr. Frigon stated the Cape Fear Valley Medical Center option is also being explored and the hospital system believes that a July 1 effective date to move into that process is unrealistic so the option is being explored for future dates.

Executive Summary: Progress to Date

**Completed Tasks -**

- Initial Engagement 11/2017
- Health Savings Account – Non-Compliant Plan
- Coordinate with BCBS to convert to a non-HSA plan
- Draft letter for Employees
- Onsite meeting support for employee notification
- Update Benefit Guide to reflect corrected plan and remove voluntary benefits no longer being offered to new hires
- Initial Claim Update & Lag Reports

**Open/Ongoing Tasks -**

- Ongoing Claims Review
  - Monthly Lag Report
- Project Timelines – Next Slide
- Budget Discussion

Executive Summary: Timeline – High Level Projects

**February 2018 through April 2018**

- Medical Renewal
  - Plan Changes
  - Aggregate Stop Loss Review
  - Equivalent Rate Decisions
  - Gross Cost Estimates
  - Market Review
  - Ancillary - Voluntary Life, STD, LTD, Critical Illness, Cancer
  - Dental

**May 2018 through July 2018**

- Onsite Enrollment Meetings
  - Create educational collateral for additional employee communication
- Compliance Checklist Review and Changes
- Benefit Administration Evaluation

**May 2018 through October 2018**

- Cape Fear Valley Health Systems Evaluation
  - Provider Disruption
  - Repricing/Discount Review
  - Utilization Management
  - Pharmacy Management
  - Finalist Meetings

**August 2018 through October 2018**

- Broker RFP

Mr. Quinn reviewed FY2018 financials and projected estimates for the FY2019 renewal as outlined below stating the differential appears to be -3.3%. Mr. Quinn stated it is fair, reasonable and responsible to have a reserve fund, but the question is whether it needs to be \$6 million.

Executive Summary: Budget

	FY 2018 Budget	FY 2019 Estimate	Differential
BCBS Medical Coverage	\$23,169,459	\$22,648,590	-2.2%
Pharmacy - Onsite (Net)	\$1,488,944	\$1,563,391	5.0%
Employee Clinic	\$403,200	\$411,264	2.0%
Wellness Program	\$226,647	\$226,647	0.0%
Waist Incentive	\$331,750	\$0	-100.0%
<b>Total</b>	<b>\$25,620,000</b>	<b>\$24,849,892</b>	<b>-3.0%</b>
Medical Employee Contribution	\$2,141,103	\$2,141,103	
<b>Net Cost</b>	<b>\$23,478,897</b>	<b>\$22,708,789</b>	<b>-3.3%</b>

- BCBS Medical coverage includes claims and fixed costs.
- The estimated medical gross figures and employee contributions for 7/1/2017 were provided by Mark III
- The estimated medical gross figures and employee contributions for 7/1/2018 are based on 2,589 enrolled on the medical plan.
- Cumberland County has accumulated an estimated \$6,000,000 in reserve to account for a poor claims year.
- IBNR (incurred but not recorded) claims (with margin) are estimated at \$1,585,990.
- Above 2017 figures provided by Cumberland County.
- 2018 figures included a small margin for cost fluctuation.
- Review the merits of the Waist Incentive Program for 2018.

Mr. Quinn highlighted underwriting details for the prior and current periods as outlined below and stated it will likely be consistent next year and is fair and reasonable to budget. Mr. Quinn stated underwriting and looking at claims is a predictable event based on 5,000 claimants and the County pays for individual stop-loss insurance for all claims over \$150,000 which is important to continue.

BCBS NC: Claims Summary / Rolling 24 Month Period - January 1, 2016 through December 31, 2017

- For illustrative purposes, we have noted claims with and without large claimants over \$150,000 (Overlaps Stop Loss Periods)

	Prior Period –		Current Period –	
	January 2016 through December 2016		January 2017 through December 2017	
Loss Ratio	106% of expected 100.9% excluding claimants +\$150,000		93.5% of expected 88% excluding claimants + \$150,000	
Number of Claimants over \$50,000	64		58	
Number of Claimants over \$150,000	5		7	
Total Paid Claimants over \$50,000 to \$150,000/ % of Total Claims to \$150k	\$5,159,072 27.6%		\$5,289,750 30.3%	
Total Paid for Claimants over \$150,000	\$943,083		\$1,078,636	

Mr. Quinn provided the following medical renewal summary and stated the fixed cost increase is purely due to a stop loss increase which is a moving number each year and the most volatile piece in insurance because the company is taking a greater risk. Mr. Quinn stated it is important to have this protection in place and the aggregate hard dollar increase of \$250,000 is being negotiated with BCBS NC. Mr. Quinn stated the administration cost remains at current and for budgeting purposes, a margin of 5% or about \$950,000 was added to expected claims and included the -3.3% differential based on existing claims. Mr. Quinn stated based on 5,000 claimants, the underwriting calculation should not miss by more than 5%. Mr. Quinn stated there should always be a reserve fund but some of the \$6 million may be able to be released from that reserve fund and used for other things; this is the Board’s call.

Mr. Quinn responded to questions and stated what he is explaining is how most organizations of the County’s size would do their planning and many do not have a reserve fund that is 33% of expected claims. Mr. Quinn stated it is a big fund and perhaps the County wants to take another year or two to look at it. Mr. Quinn stated Chernoff Diamond is trying to make sure they are coaching the County appropriately and being fiscally responsible. Mr. Quinn stated the County may be more comfortable using some of the reserve funds for other things in the future, but the underwriting calculation should not miss by 33%.

**Medical Renewal Summary: BlueCross BlueShield of North Carolina**

Coverage	2589 Enrolled	CURRENT BCBS NC	Renewal BCBS NC	Projected w/CD Factors
<b>Fixed Cost Comparison</b>				
PEPY Annual		\$944	\$1,041	\$1,041
Differential from Current		<u>\$2,443,188</u>	<u>\$2,694,528</u>	<u>\$2,694,528</u>
			\$251,340	\$251,340
			10.3%	10.3%
<b>Expected Liability</b>				
PEPY Annual		\$7,515	\$7,324	\$7,340
Differential from Current		\$19,457,313	\$18,961,945	\$19,003,869
			-\$495,368	-\$453,444
			-2.5%	-2.3%
<b>Fixed Costs + Expected Claims</b>				
PEPY Annual		\$8,459	\$8,365	\$8,365
Differential from Current		\$21,900,501	\$21,656,473	\$21,698,397
			-\$244,027	-\$202,104
			-1.1%	-0.9%
<b>Fixed Costs + Expected Claims + CD at 5% Margin</b>				
PEPY Annual		\$8,459	\$8,365	\$8,748
Differential from Current		\$21,900,501	\$21,656,473	\$22,648,590
			-\$244,027	\$748,090
			-1.1%	3.4%

Mr. Quinn stated because the County is self-funded, it has some flexibility with its plan design. Mr. Quinn explained the renewal options/changes and recommendations outlined below.

### Medical Renewal Options/Changes

Benefit/Eligibility Description	Optional Benefit/Eligibility Changes	Choose Option
<b>Telehealth</b> <i>Effective 7/1/17 or upon renewal</i>	Option to select from one of 3 contracted vendors or exclude. <ul style="list-style-type: none"> <li>• DoctorOnDemand</li> <li>• MDLive (Standard)</li> <li>• Teladoc</li> </ul> Cost \$0.80 PEPM; Member Co-Pay/Cost Share will apply	Select: <ul style="list-style-type: none"> <li>• DoctorOnDemand</li> <li>• MD Live (Standard)</li> <li>• Teladoc</li> <li>• Exclude</li> </ul>
<b>Diagnostic Services with Wellness Diagnosis</b> <i>Effective 1/1/18 or upon renewal</i>	Option to accept BCBS' new standard benefit of Diagnostic services billed with a wellness diagnosis will be denied. Including, but not limited to: Urinalysis testing, Thyroid function testing, Vitamin D, serum testing, EKGs, Testosterone level testing, Vitamin B serum testing, Albumin (urine) testing, Iron level testing, Chest x-rays. <p>OR</p> choose to cover for services based on place of service <p>Last 12 Months of Cumberland Data: 2,111 claimants (may be same claimants for different services), \$87,230 Billed, \$66,462 Paid</p>	Select One: <ul style="list-style-type: none"> <li>• Standard</li> <li>• Payment based on place of service</li> </ul>
<b>Mental Health and Substance Abuse Office Visits</b> <i>Effective 1/1/18 or upon renewal</i>	Mental Health and Substance Abuse office visits, Option to <ul style="list-style-type: none"> <li>• Cover at PCP copay. (New BCBS Standard)</li> <li>• Remain at specialist cost share (currently 20% after deductible on PPO)</li> </ul> Estimated increased claim cost of \$27,000 annually at PCP Copay (based on current claims)	Select One: <ul style="list-style-type: none"> <li>• Standard</li> <li>• Remain w/Specialist Cost Share</li> </ul>
<b>Preventive Services: Bright Futures</b>	Blue Cross NC will cover the following services in-network at the pediatrician's office at 100% with no deductible: <ul style="list-style-type: none"> <li>• 100% (no member liability/no charge) on maternal depression</li> <li>• 100% (no member liability/no charge) on newborn bilirubin screening</li> </ul>	Mandatory Change

- Cumberland’s plan in non-grandfathered.
- Essential Health Benefits have been benchmarked through North Carolina
- The terms noted as “standard” are the options that BCBS NC is applying to their fully insured groups. As an ASO plan sponsor, Cumberland may choose the option best suited for the plan.

### Recommendations

- Revert to Single Option PPO Plan
- Keep PPO deductibles/co-insurance, etc. as is. Removing the Consumer Driven Health Plan (CDHP) will leave some employees with a higher deductible and Out of Pocket
- Implement TeleHealth – Estimated Annual Fixed Cost \$24,854
- Adopt standard Mental Health office visit processing at PCP visit co-pay
- Mandatory Change – Bright Futures
- Evaluate viability of offering grandfathered smoker and non-smoker contribution tiers

Questions and comments followed. Ms. Cannon requested action on the recommendations laid out by Chernoff Diamond for the July 1 renewal.

MOTION: Commissioner Adams moved to approve the recommendations as presented.  
 SECOND: Commissioner Faircloth

DISCUSSION: Commissioner Faircloth stated the County has a \$6 million reserve and 5% built in for claims excess and in last year’s plan, a lot of first dollar money was removed for specialists which basically hurt a lot the chronically ill who have to go to specialists every three months. Commissioner Faircloth stated although this

resulted in favorable claims experience, money was saved on the backs of the chronically ill. Commissioner Faircloth stated he favors restoring some first dollar money for chronic illness, even though he does not have the numbers and there is no recommendation for that. Commissioner Adams stated he agreed and would like to have the numbers brought back to the April Finance Committee meeting. Mr. Quinn stated a specialist visit is subject to deductible and co-insurance, so they will get an incremental projection of claims based on restoring some kind of co-pay. Mr. Quinn explained the co-pay is usually double the primary care co-pay. Mr. Quinn stated they will also look back and see what the average claim dollar was over the last two years on the actual experience for specialists.

Commissioner Adams withdrew his motion and stated action could be tabled to the next meeting of the Finance Committee. Commissioner Keefe asked whether the matter was time sensitive and could be tabled. Ms. Cardinali stated as long as action is no later than the April meeting because any changes will need to be communicated to employees and open enrollment will need to proceed. Commissioner Adams stated since there does not appear to be any objections to the recommendations, he will offer a motion and after receiving the numbers in April, it can be amended should there be a desire to do so.

**MOTION:** Commissioner Adams moved to go forward with the recommendations with the proviso as presented.

**SECOND:** Commissioner Faircloth

**VOTE:** UNANIMOUS (3-0)

#### 4. CONSIDERATION OF FINDINGS FROM FOLLOW-UP AUDIT OF WOMEN'S PROGRAMS AT THE HEALTH DEPARTMENT

##### BACKGROUND:

Internal Audit has completed a follow-up audit of the Women's Programs at the Health Department for the time period of July 1, 2017 – December 31, 2017. The report for the audit is being submitted for review at this time.

##### RECOMMENDATION/PROPOSED ACTION:

Staff recommends accepting the Internal Audit report for the Women's Programs at the Health Department.

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Tammy Gillis, Internal Audit Director and Wellness Coordinator, stated this audit is a follow-up on the Cumberland County Public Health Department Women's Clinic procedures for notifying patients of abnormal breast and cervical exam results. Ms. Gillis explained the Women's Clinic consists of the Breast and Cervical Cancer Control Program (BCCCP), Family Planning and Maternity. Ms. Gillis stated the Cumberland County BCCCP Progress Report from DHHS and contracted lab company reports from July 1, 2017 through December 31, 2017 were used to perform a 100% review. Ms. Gillis also stated the Cumberland County Health Department

Abnormal Pap Smear Follow-Up Procedure for BCCCP, Family Planning and Maternity were used as guidelines to determine timely notification of abnormal results.

Ms. Gillis provided the following audit report:

BREAST AND CERVICAL CANCER CONTROL PROGRAM (BCCCP)

There were no patients with abnormal cervical exams from July 1 through December 31, 2017 in the BCCCP.

There were five patients with abnormal mammogram results on the Cumberland County BCCCP Progress Reports for July 1, 2017 through December 31, 2017. All five patients were notified timely.

FINDING:

The BCCCP does not have a written Health Department policy for notifying patients with abnormal mammogram results. There is a State policy for BCCCP, but Health Department staff utilize the same notification policy for abnormal mammograms that is used for notification of abnormal cervical exam results.

RECOMMENDATION:

The Health Department staff should adopt a written Health Department policy for notifying patients with abnormal mammogram results.

FAMILY PLANNING CLINIC

There were 53 patients with abnormal cervical exam results on the contracted lab company reports for July 1, 2017 through December 31, 2017.

The Health Department's policy for notification of abnormal cervical exam results:

- 1) 1<sup>st</sup> notification will be telephone call to patient and documented in patient electronic health record (EHR). This will be done within 3 business days of receiving labs from Provider.
- 2) If no response from 1<sup>st</sup> telephone call within 2 business days, 1<sup>st</sup> notification letter is sent to patient. This is documented in patient EHR.
- 3) If no response from 1<sup>st</sup> letter and telephone call in 7 business days, a 2<sup>nd</sup> telephone call and final attempt letter will be sent via certified mail. This is documented in the patient EHR.
- 4) When patient is contacted, counseling/education is initiated.
- 5) Copy of all letters will be sent to medical records to be scanned into the patient EHR.

FINDINGS:

Three patients were not notified in a timely manner of their abnormal cervical exam results:

- One patient was notified 50 days late due to oversight by Health Department staff.
- Health Department lab staff reconcile patient lab sheets to ensure that results are received for all patients. The reconciliation was not performed in Sep and Dec 2017. As a result, one patient was notified 83 days late and one patient 38 days late.

RECOMMENDATION:

The Health Department lab staff should reconcile patient lab sheets to ensure that Clinics can adhere to their notification policies.

MATERNITY CLINIC

There were 12 patients with abnormal cervical exam results on the contracted lab company reports for July 1, 2017 through December 31, 2017.

The Health Department's policy for notification of abnormal cervical exam results:

- 1) The patient is informed of the abnormal pap result and need for follow-up during her next prenatal appointment (pnv).
- 2) If it is urgent and patient needs to be seen immediately, the nurse calls the patient to inform her of her results and need for follow-up.
- 3) If the patient does not return to clinic and/or cannot be reached by telephone after two attempts on two different days, the nurse will attempt to contact patient via emergency contact; if no response within 10 days, a letter will be sent to the patient.
- 4) If no response from 1<sup>st</sup> letter within 10 days, telephone call is attempted to patient, if no response, 2<sup>nd</sup> notification letter is sent and
- 5) If no response from 1<sup>st</sup> and 2<sup>nd</sup> letter, and telephone call in 10 days, a Final Attempt letter will be sent via certified mail
- 6) At discretion of the clinic provider, a 2<sup>nd</sup> certified letter may be mailed, if no response, the patient is placed inactive.

FINDINGS:

Two patients were not notified in a timely manner of their abnormal cervical exam results:

- One patient was not informed at their next prenatal visit following the abnormal exam results. The patient was informed at their second prenatal visit, which was 90 days late.
- One patient that missed their next prenatal visit after the abnormal result was received was informed at their rescheduled prenatal visit, which was 14 days late.

RECOMMENDATION:

The Maternity Clinic Health Department staff should follow their written policy of notifying patients with abnormal results.

CONCLUSION:

All Findings and Recommendations have been discussed with the Health Department Women's Clinic staff and all patients have now been notified of abnormal results.

Questions followed. Ms. Gillis stated the report has been given to Interim Health Department Director Duane Holder who will respond to the findings.

**MOTION:** Commissioner Faircloth moved to accept the internal audit report on the Cumberland County Public Health Department Women's Clinic.

**SECOND:** Commissioner Adams

**VOTE:** UNANIMOUS (3-0)

Mr. Holder informed the Committee that the outliers who were not notified in a timely manner are currently being dealt with and stated the definition of timely is spelled out in the policy because the state does not have a definition of timely notification. Mr. Holder stated this audit report has been shared internally and will be shared with the Board of Health at its next meeting. Mr. Holder stated currently there is no comprehensive reporting mechanism for reporting to the Board of Health and a dashboard of typical indicators will be implemented in an effort to pull in and further engage the Board of Health. Mr. Holder stated he plans to have at the next meeting of the committee a proposal from the outside risk manager on costs to engage representatives to find the remaining 30 individuals not contacted and should there be interest, a similar type proposal for engagement to conduct an outside review. Mr. Holder responded to questions from Commissioner Evans.

## 5. CONSIDERATION OF SELECTION OF COUNSEL TO PURSUE OPIOID LITIGATION

### BACKGROUND:

As a measure of the extent of the opioid crisis in our County, I have included in the attachments data on opioid prescription rates and opioid poisoning deaths which are 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	2015 population of 1,034,070, rank 1
Wake	38 deaths	2015 population of 1,024,198, rank 2
Forsyth	33 deaths	2015 population of 369,019, rank 4
New Hanover	32 deaths	2015 population of 220,358, rank 9
Cumberland	31 deaths	2015 population of 323,838, rank 5
Burke	30 deaths	2015 population of 88,824, rank 33

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. At the February 15, 2018, Finance Committee meeting, Commissioner Adams asked for information on the source of the data posted on the NCACC's website. The data is from the CDC US Prescribing Rate Maps with the prescribing data source being QuintilesIMS Transactional Data Warehouse (TDW). That data is based on a sample of approximately 59,000 retail (non-hospital) pharmacies, which dispense nearly 88% of all retail prescriptions in the U.S. For this database, a prescription is an initial or refill prescription dispensed at a retail pharmacy in the sample, and paid for by commercial insurance, Medicaid, Medicare, or cash or its equivalent. The database does not include mail order pharmacy data. The population data is derived from the official annual estimate of population on July 1 by the Census Bureau. Military personnel are included in the official estimate in the same manner as they are counted in the decennial census.

All these opioid cases against manufacturers or distributors filed in any U. S. District Court have been assigned to a judge in the Northern District of Ohio as multi-district litigation. That will happen with any case filed by Cumberland in the Eastern District of North Carolina.

The NCACC has been very active in assisting counties with the response to the opioid crisis. As of January 22, 2018, the NCACC reported that 22 counties had either filed suit or were in the process of selecting counsel to do so. The county attorney is aware of at least five other counties becoming involved in this process since that date. 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 state's 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 which is attached. 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. The resolution this group has requested is attached. Note that Bladen and Columbus Counties are identified as neighboring counties in which the prescription rates are much higher than the state average. The City of Fayetteville has contracted with this group to pursue opioid litigation.

**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. They have proposed engaging Mike Williford of the Williford, Hollers, Crenshaw, Boliek & Frangakis Law Firm as local counsel but have expressed their willingness to engage any local counsel the Board of Commissioners prefers. 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 which is attached. This group did tailor the resolution to fit the data for Cumberland County.

**Both Groups:**

The contract terms for both groups are now basically the same. Each is a 25% contingency fee contract with the fee to be applied to the gross amount of any recovery with the costs of litigation to be reimbursed from the balance after deducting the attorneys' fees. Each will provide defense for any counterclaims or claims for sanctions at no additional fee. Neither contract requires the county to expend any funds for attorneys' fees or costs except out of monies received out of settlement with or a judgment against the defendants. 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 has experience with opioid and multi-district litigation and each is exceptionally qualified to pursue this litigation.

**Other Options:**

The Board does not have to choose either of these firms to pursue this litigation; however; at this time no other counties have filed suit with a firm other than one of these. Alamance County has done a RFP for counsel and is in the selection process. The Catawba County Attorney was designated as local counsel for the McHugh Fuller Group and has already filed suit. Included in the attachments is the resolution that was adopted by Buncombe County on November 7, 2017, as an example of a resolution that was drafted by the county and specific to that county's circumstances. Buncombe was the first North Carolina County to file a lawsuit. This information is provided for the Board to understand that it has a range of options to consider and should proceed as it deems appropriate to Cumberland's circumstances.

**RECOMMENDATION/PROPOSED ACTION:**

The county attorney recommends the Board select counsel to join the litigation and advises that the two groups of firms whose proposals are summarized above are as qualified as any firm that might be solicited with a RFP. If the Board is satisfied with either of these proposals, the Board should proceed to select one of these groups as counsel under the terms of the proposals as presented or subject to such further conditions as the Board deems appropriate.

\*\*\*\*\*

Mr. Moorefield referenced the information he provided and stated the first issue is to address a question posed earlier by Commissioner Adams regarding CDC data. Mr. Moorefield stated the CDC data is from a fiscal sample of 59,000 pharmacies across the United States that dispense 88% of the prescriptions in the country. Mr. Moorefield stated it is the only source of data, everyone is using it and it does not include hospital pharmacies. Mr. Moorefield stated the second issue is the selection of counsel. Mr. Moorefield explained the limited role of local counsel. Mr. Moorefield stated his recommendation is for the Board to designate the County Attorney as local counsel and to select the Crueger-Dickinson Firm because their litigation approach is more in line with the data Cumberland County has from the CDC. Mr. Moorefield stated Cumberland County does not have data to substantiate damages and the damages model used by the Crueger-Dickson Firm is based on a John Hopkins Medical School community damages model. Mr. Moorefield stated the case is being transferred and heard in the northern district of Ohio and most of what has happened thus far is procedural related to cases around the country being consolidated into this action. Questions and discussion followed.

Commissioner Adams stated a nuisance has to be declared and he is prepared to make a motion to let the County Attorney proceed with that because everyone has been bombarded by local firms. Commissioner Adams stated before a national firm is hired, local firms need to be given an opportunity to make a presentation.

**MOTION:** Commissioner Adams moved to allow the county attorney to proceed at this time and if there are local people that have a national firm, then they submit and a determination can be made at the next Finance Committee meeting.

**SECOND:** Commissioner Faircloth

DISCUSSION: Commissioner Keefe stated Mr. Moorefield is recommending a national firm. Commissioner Adams stated his motion did not include a national firm. Commissioner Keefe asked whether the local firms would contact a national firm and come to the committee with a proposal. Commissioner Faircloth stated based on the way he is reading it, the national firm hires their local counsel. Commissioner Adams stated so if these local people want to engage with whatever firm, that's on them. Commissioner Faircloth stated then local people do not have to bring proposals to the county and the committee will delay a recommendation for hiring. Commissioner Adams stated that is right and it will come back to the Finance Committee in April. Questions and additional discussion followed. Commissioner Keefe asked whether there would be a motion creating a nuisance. Mr. Moorefield stated a nuisance should not be declared because one of the firms is not using a nuisance approach. Mr. Moorefield clarified whether he was to bring back a final proposal from these two firms with local counsel. Commissioner Adams responded in the affirmative.

Commissioner Adams withdrew his motion. Commissioner Faircloth stated he only seconded the motion for discussion. Commissioner Keefe stated with no motion on the table, this matter will be tabled until the April meeting of the Finance Committee.

## 6. CONSIDERATION OF PURSUING LEGISLATION TO ESTABLISH COUNTY SMALL BUSINESS ENTERPRISE PROGRAM

### BACKGROUND:

The Board of Commissioners will meet with the N.C. Legislative Delegation on March 9 at 8:30 a.m. in Room 119 of the Judge E. Maurice Braswell Courthouse. Commissioners were asked to submit items they wanted included on the state legislative agenda.

Commissioner Jimmy Keefe requested that the County discuss pursuing legislative action that mirrors House Bill 198/Session Law 2017-81 – “An Act to Amend the Charter of the City of Fayetteville to Authorize the City to Establish a Small Business Enterprise Program to Promote the Development of Small Businesses in the City and Enhance the Opportunities for Small Businesses to Participate in City Contracts.”

The item below was included in a DRAFT 2018 State Legislative Agenda approved by the Policy Committee on Feb. 15, 2018; and appeared on the consent agenda for the Board of Commissioners meeting on Feb. 19, 2018.

*Consider pursuing legislative action to allow Cumberland County the flexibility to participate with local companies and vendors through a small business enterprise program like the legislative action approved last year for the City of Fayetteville.  
(Session Law 2017-81)*

Commissioner Adams asked that the small business enterprise program item be removed from the State Legislative Agenda and referred to the Finance Committee on March 1 for consideration prior to discussing with the legislative delegation.

A copy of the City's legislation, which was ratified on June 29, 2017 has been provided along with information on how the City has implemented their program. The information provided also includes a presentation by the School of Government on "Local Preferences in Public contracting: Legal Limitations and HB198 and the resolution establishing the Small Local Business Enterprise Program.

**RECOMMENDATION/PROPOSED ACTION:**

Consider whether Cumberland County should pursue legislative action to allow it the flexibility to participate with local companies and vendors through a small business enterprise program.

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Sally Shutt, Assistant County Manager, referenced information on how the City implemented their small business enterprise program. Commissioner Adams stated although he does not have a problem with what the City implemented, it has absolutely nothing to do with the legislation that says you can take one bidder over another bidder. Commissioner Adams stated the reason he asked to have this removed from the State Legislative Agenda was because it will drive up costs. Commissioner Adams stated if local bidders are selected over lower-cost outside bidders, outside bidders will cease to bid. Commissioner Adams stated he would like to see how it works out for the City and PWC and whether it has a financial impact. Commissioner Adams stated it will also be short-sighted for local businesses because when other counties do the same thing, local businesses will not be able to compete in those markets. Commissioner Adams stated the long-term effects have not been considered. Commissioner Keefe stated the idea was to mirror the City's approach and establish a culture of working with local businesses. Commissioner Keefe stated poverty ceases when jobs happen and because the Board has responsibility for good stewardship, he would not support a higher bid just to go local. Commissioner Adams stated he concurred with Commissioner Keefe's comments but feels it is all speculative. Commissioner Adams stated he thinks the implementation needs to take place because that can be done without the bill, and then wait and see what happens in terms of cost.

**MOTION:** Commissioner Adams moved to do the implementation but not the bill and wait to see the ramifications.

**SECOND:** Commissioner Faircloth

**VOTE:** UNANIMOUS (3-0)

Ms. Cannon asked if the Committee would allow the Finance Director to come up with some program implementation steps tailored to the County instead of accepting the City's. Consensus followed. Commissioner Keefe confirmed the legislation will not be on the State Legislative Agenda.

**7. MONTHLY CDBG-DR UPDATE**

Status as of February 7, 2018:

<b>Total Applications</b>	<b>Incomplete Applications</b>	<b>Applications Submitted For Review</b>	<b>*Complete Applications Ready for State Eligibility Review</b>
206	104	64	38

\*Ready for Eligibility Review and determination of Duplication of Benefits (DOB) by the State

Milestones:

- November 29, 2017 – State’s directive - Intake Center opens in Cumberland County
- January 16, 2018 – County received Transition Plan for Intake Center (effective 1/24/18)
- January 22, 2018 – County received executed State MOU
- January 25 & 26, 2018 – Salesforce software training for County & City staffs
- February 7, 2018 – State contractor ends support for Intake Center; County & City provide supplemental staffing to assist State
- February 7, 2018 – County staff identified as QC Reviewers (Dee Taylor) and Center Manager (Sylvia McLean) in the interim
- February 19, 2018 - State began transfer of Intake Center to Cumberland County
- March 23, 2018 – Intake Center totally transfers to Cumberland County
- Next step process – incomplete applications process
- Environmental assessment review processes to be done by the counties

Current Staffing:

- State: (2) NCEM staff - Application Specialist - as of to-date
- Cumberland County: supplemental staffing (2) CD staff
- City of Fayetteville: supplemental staffing (2) CD staff
- Advertised time-limited positions week of February 12, 2018

Hours of Operation:

- Monday – Friday, 9 a.m. to 4 p.m.

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Tracy Jackson, Assistant County Manager, provided highlights of the information recorded above and stated the goal is to push everyone towards eligibility review. Mr. Jackson also stated the center will be moved from the Department of Social Services to the Community Development Department.

MOTION: Commissioner Keefe moved to accept the update.  
 SECOND: Commissioner Faircloth  
 VOTE: UNANIMOUS (3-0)

8. MONTHLY FINANCIAL REPORT

Vicki Evans, Finance Director, provided highlights of the January to Year-to-Date report recorded below and stated the County is on trend with the same amounts of last fiscal year.

	FY16-17	FY17-18	FY17-18	YTD ACTUAL	PERCENT OF	
REVENUES	AUDITED	ADOPTED BUDGET	REVISED BUDGET	AS OF JANUARY 31, 2018	BUDGET TO DATE	*
Ad Valorem Taxes						
Current Year	\$ 156,131,527	\$ 160,312,162	\$ 160,312,162	\$ 155,807,963	97.2%	(1)
Prior Years	1,046,732	1,121,000	1,121,000	787,535	70.3%	
Motor Vehicles	17,683,864	18,070,242	18,070,242	8,831,292	48.9%	(2)
Penalties and Interest	650,368	667,602	667,602	313,779	47.0%	
Other	1,018,563	930,279	930,279	574,632	61.8%	
Total Ad Valorem Taxes	176,531,054	181,101,285	181,101,285	166,315,202	91.8%	
Other Taxes						
Sales	41,517,943	41,760,036	41,760,036	14,002,425	33.5%	(3)
Real Estate Transfer	1,091,362	700,000	700,000	586,454	83.8%	
Other	1,114,408	1,111,500	1,111,500	334,432	30.1%	
Total Other Taxes	43,723,713	43,571,536	43,571,536	14,923,311	34.3%	
Unrestricted & Restricted Intergovernmental Revenues	75,613,483	67,300,253	70,609,410	29,697,650	42.1%	(4)
Charges for Services	13,832,010	12,056,608	12,078,008	5,526,180	45.8%	
Other Sources (includes Transfers In)	8,945,521	6,988,890	7,043,058	1,096,613	15.6%	(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	38,302,989	32,116,397	83.8%	
<b>Total Revenue</b>	<b>\$ 322,360,418</b>	<b>\$ 314,733,209</b>	<b>\$ 345,663,228</b>	<b>\$ 248,578,740</b>	<b>71.9%</b>	
Fund Balance Appropriation		8,889,652	8,247,120	-	0.0%	(8)
<b>Total Funding Sources</b>	<b>\$ 322,360,418</b>	<b>\$ 323,622,861</b>	<b>\$ 353,910,348</b>	<b>\$ 248,578,740</b>	<b>70.2%</b>	



<b>Fiscal Year 2018 - January Year-to-Date Actuals</b>	
<b>Additional Detail</b>	
<b>General Fund Revenues</b>	
*	
(1)	<b>Current Year Ad Valorem</b> 97.2% - the bulk of revenues are typically recorded between November - January.
(2)	<b>Motor Vehicles</b> 48.9% - YTD Actual reflects 6 months of collections.
(3)	<b>Sales Tax</b> 33.5% - YTD Actual reflects four months of collections.
(4)	<b>Unrestricted/Restricted Intergovernmental</b> Revenues 42.1% - lag in revenue is typically one month.
(5)	<b>Other Sources</b> (includes Transfers In) 15.6% - Rental income makes up majority of actual receipts. The majority of remaining balance is budgeted as a transfer in to fund the Board of Ed debt payment toward year-end.
(6)	<b>Proceeds, Premium, Closing</b> 100% - COPS/LOBS refunding of \$23M closed in August 2017. (Correlates with item (10) on report of expenditures.)
(7)	<b>Lease Land CFVMC</b> 93.5% - typically paid in the beginning of the fiscal year. Staff continue to follow up on the balance remaining.
(8)	<b>Fund Balance Appropriation</b> 0% - Direct entries are not made to fund balance throughout the fiscal year.
<b>General Fund Expenditures</b>	
**	
(1)	<b>Board of Elections</b> 26.4% - capital purchase budgeted for \$809,045 has not yet been purchased.
(2)	<b>Debt Service</b> 71.2% - debt payment made in December
(3)	<b>Youth Diversion</b> 3.1% - expenditures for this program tend to occur later in the fiscal year. Conference scheduled during the month of December.
(4)	<b>Engineering</b> 11.8% - Revised budget reflects \$1.2M addition for stream debris removal grant for which no expenditures have been incurred. A budget revision was done in December to move this grant over to Engineering since they will be completing the projects.
(5)	<b>Economic Physical Development</b> 100% - NC Southeast contribution has been paid in full.
(6)	<b>Industrial Park</b> 2.4% - maintenance at Cedar Creek Industrial Park has not yet been completed.
(7)	<b>Economic Incentive</b> 5.4% - economic incentives are budgeted at 100% of agreements but are not paid unless/until the company complies.
(8)	<b>Water and Sewer</b> 0% - Funds budgeted for Overhills W&S have not yet been expended.
(9)	<b>Transfers Out</b> 3.5% - transfers out typically occur near year-end.
(10)	<b>Refunding</b> of 2009A and 2011B LOBS 100% - refunding of \$23M closed in August 2017. (Correlates with item (6) on report of revenues.)
(11)	<b>Capital Outlay</b> 43.1% - Board of Elections capital equipment and FTCC capital outlay budgeted but not incurred or encumbered makes up the majority of unutilized budget.

## 9. OTHER ITEMS OF BUSINESS

There were no other items of business.

There being no further business, the meeting adjourned at 10:05 a.m.