

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
AND
CUMBERLAND COUNTY AREA AUTHORITY AREA BOARD
OCTOBER 29, 2012 – 6:00 PM
DEPARTMENT OF SOCIAL SERVICES
1225 RAMSEY STREET – CONFERENCE ROOM B
FAYETTEVILLE, NORTH CAROLINA
SPECIAL MEETING MINUTES

BOARD OF COMMISSIONERS

COUNTY STAFF

PRESENT: Commissioner Marshall Faircloth, Chairman
Commissioner Jimmy Keefe, Vice Chairman
Commissioner Jeannette Council
Commissioner Kenneth Edge
Commissioner Charles Evans
Commissioner Billy King
Commissioner Ed Melvin
James Martin, County Manager
Amy Cannon, Deputy County Manager/Finance Officer
James Lawson, Assistant County Manager
Rick Moorefield, County Attorney
Sally Shutt, Chief Public Information Officer
Howard Abner, Assistant Finance Director
Kelly Autry, Accountant
Candice White, Clerk to the Board
Kellie Beam, Deputy Clerk to the Board
Press

MENTAL HEALTH AREA BOARD

MENTAL HEALTH STAFF

PRESENT: Lodies Gloston, Chair
Allie Wiggins, Vice Chair
Dr. Zane Walsh, Jr.
Christopher Bostock
Dr. Sanjay Shah
Annie A. Owens
Mary A. Hales
Gladys Hunt
Alejandro Vazquez
Hank Debnam, Area Authority Director
Claretta Johnson, Area Authority Deputy Director
Debbie Jenkins, Local Mental Health Administrator II
Candi York, Business and Finance Manager
Sharon Yates, Director of Public Relations
Jonathan Charleston, Area Authority Area Board Attorney
Linda Walker, Executive Assistant

MENTAL HEALTH AREA BOARD

ABSENT: Amy Garner
Jo Beth Cain
Ernest Gore
Liliana C. Parker
Janice Smith

1. CALL TO ORDER

Lodies Gloston, Area Authority Area Board Chair, called the special meeting of the Mental Health Area Board to order.

Chairman Faircloth called the special meeting of the Cumberland County Board of Commissioners to order.

2. AGENDA ADJUSTMENTS

Chairman Faircloth called attention to the revised agenda that included a closed session for an attorney- client matter pursuant to NCGS 143-318.11(a)(3). There were no further adjustments to the agenda.

3. APPROVAL OF AGENDA

MOTION: Commissioner King moved to approve the agenda as revised.
SECOND: Commissioner Melvin
VOTE: UNANIMOUS (7-0)

Commissioner Evans requested input on the closed session matter. Rick Moorefield, County Attorney, stated it was his understanding after talking with Jonathan Charleston, Area Authority Area Board Attorney, that it would be a discussion related to the potential contract terms for the interlocal agreement with the Managed Care Organization (MCO) and both attorneys would be present.

MOTION: Commissioner King moved to approve the agenda as revised.
SECOND: Mr. Bostock
VOTE: UNANIMOUS (9-0)

4. DISCUSSION REGARDING INTERLOCAL AGREEMENT BETWEEN CUMBERLAND, JOHNSTON AND DURHAM (ALLIANCE BEHAVIORAL HEALTHCARE-WAKE AND DURHAM) VERSUS MERGER

Mr. Charleston reviewed the topics to be covered as recorded below:

Topics to Cover

- Inter-Local Agreement Between Cumberland, Johnston and Durham (Alliance Behavioral Healthcare- Wake and Durham) Versus Merger
- Mental Health Fund Balance
- Path Forward: Next Steps

Mr. Charleston stated to address cost efficiencies, the State of North Carolina implemented a consolidation plan for Area Authorities pursuant to Session Law 2012-151 which was codified as Senate Bill 191, and the operational models acceptable to the State were merger, interlocal agreement or a Local Management Entity (LME)/Area Authority that was large enough to stand alone, such as Mecklenburg County. Mr. Charleston advised the Cumberland County Area Authority Area Board elected the interlocal agreement. Mr. Charleston stated the Session Law also stated certain sanctions would be imposed on any LME/Area Authority that failed to align either through a merger or interlocal agreement, which would mean the State would designate where an LME/Area Authority would be assigned.

Mr. Charleston stated under a merger consideration, dissolution of the Cumberland County Area Authority would be required and the Board of Commissioners would determine whether the Area Authority continued to operate as such and where the provision of mental health services would in effect come from. Mr. Charleston further stated under North Carolina General Statutes, Cumberland County exercising its jurisdiction over the Area Authority is limited and the statute specifically provides that it may not consolidate an Area Authority into a consolidated human services board and the Board may not abolish an Area Authority. Mr. Charleston stated whenever a Board of Commissioners constituting an Area Authority determines the Area Authority is not operating in the best interest of consumers, it may then direct that the Area Authority be dissolved and then withdraw from the Area Authority pursuant to the statutes. Mr. Charleston stated dissolution or withdrawal from the Area Authority by Cumberland County for other reasons shall be effective only at the end of the fiscal year in which the action of dissolution or withdrawal transpired. Mr. Charleston also stated the county shall not withdraw from the Area Authority nor shall an Area Authority dissolve without first demonstrating that continuity of services will be assured.

Mr. Charleston stated the Cumberland County Area Authority has considered merger with Alliance Behavioral Healthcare and if the Board of Commissioners considers merger of any type, the hope is that it would consider an Area Authority/MCO that would present the best opportunity for citizens of Cumberland.

Mr. Charleston referenced the interlocal agreement entered into in September, 2011 by the Durham Center, the Johnston County Area Board and the Cumberland County Area Board for the provision of services in the combined catchment area. Mr. Charleston stated each of the three entities operating and collaborating together were single-county Area Authorities with characteristics unique to each of them. Mr. Charleston also stated the idea behind the interlocal agreement was to give the single county agencies opportunities to maintain a local presence and some degree of autonomy as to how the services were delivered in the catchment area. Mr. Charleston stated with regard to merger, the Durham Center was appointed the lead agency by the Division of Health and Human Services (DHHS) for the MCO and the governing body for the Durham Center would be the governing body for the MCO, which is where executive

authority would lie. Mr. Charleston stated the initial term of the interlocal agreement would be commiserate with the contract between the MCO and DHHS which would be three years, and either party could opt out with a thirty-day notice to the lead agency. Mr. Charleston outlined the alternate board structure for the Alliance MCO which would give Cumberland County one vote on the sixteen member board.

Mr. Charleston reviewed the merger versus non-merger considerations as recorded below:

MERGER VERSUS NON-MERGER CONSIDERATIONS

MERGER	INTER-LOCAL AGREEMENT (As of January 1, 2013)
Cumberland County Area Authority and Area Board dissolved by vote of Cumberland County Commissioners to merge	Does not require action by Cumberland County Commissioners
No option for County to re-establish an independent Area Authority after dissolution	Cumberland County Commissioners have the option to continue the Area Authority and/or to select a different MCO partner in the future
No Cumberland County CFAC as currently operated	Maintains Current Cumberland County CFAC
All County Local Funds go to Alliance for management (Disposition of Fund Balance Unresolved)	County Fee-for-Service Funds go to Alliance for management
MCO assumes financial responsibility for all behavior health service dollars in Cumberland County. MCO determines the existence of local presence responding to behavior health service issues in Cumberland County	Cumberland County Area Authority maintains local presence in responding to behavior health service issues in Cumberland County
MCO Care Coordination function provided by Alliance staff	MCO Care Coordination functions provided by Cumberland County Area Authority staff
Consumers will lose access to over \$500,000 in free medication from Patient Assistance Program if Public Mental Health Clinic closes	County can continue to operate Public Mental Health Clinic and preserve consumer access to medications
Consumers contact Alliance for help with service issues	Consumers contact Area Authority or Alliance for help with service issues
MCO staff employed by Alliance	MCO contracts for staff employed by Cumberland County/Area Authority to provide contracted MCO functions
County Commissioners cannot serve on MCO board and oversee publicly funded Mental Health	County Commissioners cannot serve on MCO board and oversee Publicly funded Mental Health Clinic (Conflict of Interest)

Clinic (Conflict of Interest)	
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5. DISCUSSION REGARDING FUND BALANCE

Hank Debnam, Area Authority Director, stated the Cumberland County Area Authority underwent its 120-day readiness review by the Department of Medical Assistance and will undergo its 60-day readiness review on November 8, 2012 in preparation for the January 1, 2013 go-live date to enter into the contract arrangement with the MCO.

Mr. Debnam highlighted events leading up to this point, provided additional information related to mental health reform and State Systems Management dollars, divestiture's impact on funding, and why the Cumberland County Area Authority needs fund balance as recorded below:

How Did We Get Here?

- ▶ Changes Impacting Mental Health Center (MHC)
 - ▶ Tri-Party agreement signed July 23, 1997 where County agreed to maintain separate Mental Health Fund Balance
- ▶ 2001: Legislation mandated area programs to start divestiture of services
- ▶ MHC Workforce of 435 in 2002
- ▶ Between 2002-2012: 29 services/programs were divested
 - Impact:
 - ▶ Loss of revenues
 - ▶ No funds to reinvest into services
 - ▶ Because of revenues still generated from Medicaid funded services, the Mental Health Center did not need to access fund balance budgeted to deliver services through 2008.

Mental Health Reform:

- Mental Health Center became a Local Management Entity (LME) in 2005 and begins receiving State Systems Management funding
- LMEs allowed to keep any unspent State Systems Management dollars
- During the next 6 years, Mental Health accumulated funds to address future needs of consumers
- FY 2005 thru FY 2009: \$4.9 million in State Systems Management dollars has gone into the Mental Health Fund Balance
- FY 2011: \$3.2 million in State funds were added to the Mental Health Fund Balance

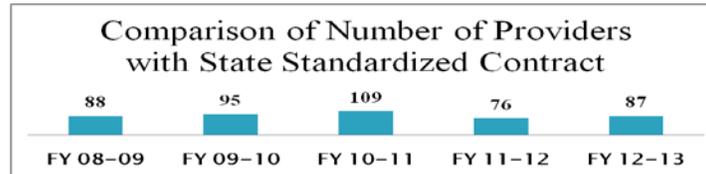
Divestiture Impact on Funding:

- Since FY 2009 all Federal, State and County funds allocated have been spent.
- Additional dollars needed to fund services as well as other operating expenses and repairs needed to facilities (such as Roxie Avenue Center, Bradford Avenue Center, Winding Creek Building).
- Fund Balance was also utilized to support needed services that could not generate enough revenues to be self sustaining.

Why Do We Need Fund Balance?

- ▶ Private agencies became the primary providers of new more intensive and costly services.” Number has remained stable over past five years.

Mr. Debnam reviewed the following graph and stated the number of providers has somewhat stabilized and several of the providers have diversified their service arrangements in order to meet the growing needs of the Cumberland County community.



- ▶ Providers received full reimbursement but did not reinvest earnings into developing new community services.
- ▶ Demands for services increased.
- ▶ Federal, state and local funding has decreased.
- ▶ We are a military community-Tricare does not reimburse for intensive services needed.

Mr. Debnam stated when faced with the above challenges, fund balance was utilized in order to meet the needs of consumers.

Candi York, Business and Finance Manager, provided a brief review of a fund balance reported as recorded below:

Review of Fund Balance Reported:

- FY 2002: *\$10,044,225
- FY 2006: *\$17,981,321
- FY 2008: *\$22,646,171

*(Data Source: Cumberland County Audit Reports)

LME State rollover funds 2005-2009: \$4,979,270.

Restricted State funding released in 2011: \$3,248,375

Ms. York noted that the fund balance as reported in the Cumberland County Audit Report increased from FY 2002 to FY 2008. Ms. York stated the \$4.9 million in LME State rollover funds were service management or administrative dollars that were unspent for FY 2005 forward. Ms. York stated the \$3.2 million in state funding was restricted pending finalization of the state audit and was released in 2011.

Chairman Faircloth asked Ms. Cannon whether the numbers agreed with the county’s records. Ms. Cannon stated she could confirm the \$3.2 million figure but would need to check on the \$4.9 million figure, and the fund balance reported for FY 2002, FY 2006 and FY 2008 were correct based on her memory.

Mr. Debnam stated there seemed to be some surprise that the Cumberland County Area Authority was utilizing fund balance to provide services to consumers in Cumberland County. Mr. Debnam stated by statute the Cumberland County Area Authority is a single-county Area

Program and as such, is a subdivision of the state. Mr. Debnam stated all moneys of the Cumberland County Area Authority go through the county's Finance Department and budget requests are approved by the Board of Commissioners. Mr. Debnam stated he cannot recall a year in which fund balance was not budgeted because there have not sufficient local dollars to meet the needs of consumers in Cumberland County. Mr. Debnam stated the purpose of fund balance dollars was to subsidize funding so the Area Authority would not have to request additional local moneys. Mr. Debnam stated the breakdown of county, federal and state moneys comprising the fund balance will happen down the road.

Commissioner Evans asked how the fund balance would be affected either by merger or interlocal agreement. Mr. Debnam stated an interlocal agreement would not impact the fund balance and the fund balance would go to the merged entity. Mr. Moorefield clarified that the transfer of fund balance only applied to the extent there actually is a fund balance. Mr. Debnam referenced the "Principles of Agreement Between Cumberland County, Cumberland County Area Program and the Division of MH/DD/SAS for the Establishment of a Separate Reserve or Fund Balance for the Cumberland County Area Program Beginning July 1, 1997" and stated there will need to be a decision as to the ownership of the fund balance.

Mr. Charleston stated certainly there is an issue with what happens with the fund balance and referenced a memorandum from the county attorney dated October 10, 2012 which read "For this reason, it is critical that the Mental Health Authority and the county reach an accord as to the ownership of this fund balance as soon as possible".

Commissioner Keefe inquired about the current amount of the fund balance. Ms. York stated her best estimate is \$14 million and stated it is somewhat difficult to see because it has not yet been identified as mental health fund balance. Commissioner Keefe asked whether the fund balance under the current scenario would be reduced to a zero balance in six to eight years. Ms. York responded in the affirmative.

6. Closed Session - Attorney- Client Matter Pursuant to NCGS 143-318.11(a)(3)

MOTION: Commissioner King moved to go into closed session for an attorney-client matter pursuant to NCGS 143-318.11(a)(3).

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (7-0)

MOTION: Ms. Wiggins moved to go into closed session for an attorney-client matter pursuant to NCGS 143-318.11(a)(3).

SECOND: Ms. Hale

VOTE: UNANIMOUS (9-0)

7. PATH FORWARD: NEXT STEPS

Mr. Charleston stated the next steps are for the Board of Commissioners and Area Board to work together to the address the resolution approving the alternative board structure for the Alliance

Behavioral Healthcare Area Authority that is being considered by the Cumberland County Board of Commissioners.

Chairman Faircloth summarized issues that have to be resolved as follows:

1. The Board of Commissioners has to deal with the resolution approving the alternative board structure for the Alliance Behavioral Healthcare Area Authority for which the MCO needs a unanimous vote. It is yet to be determined whether there will be a unanimous vote of the Board of Commissioners; the Board has indicated to the MCO that there will be a vote one way or another on November 5, 2012.
2. To be determined are an accurate fund balance amount, ownership of the fund balance between Cumberland County and its citizens and the State of North Carolina, and the disposition of the fund balance under a possible merger situation or interlocal agreement.
3. Interlocal agreement contract will be executed by Area Authority Area Board within next thirty days.
4. The Board of Commissioners has to decide whether merger is to be pursued and then assess whether its colleagues on the Area Authority Area Board are on the same page. Merger will eliminate the Cumberland County Area Authority Area Board and the local Area Authority, and there will no longer be a local presence. The Board of Commissioners and the Area Authority Area Board will have to take into account the most efficient and best way to serve citizens of Cumberland County over the next several months so a merger can happen by July 1, 2013 if that is the desired route.

8. ADJOURNMENT

MOTION: Commissioner Evans moved to adjourn.
SECOND: Commissioner Council
VOTE: UNANIMOUS (7-0)

MOTION: Commissioner King moved to adjourn.
SECOND: Ms. Wiggins
VOTE: UNANIMOUS (9-0)

There being no further business, the meeting adjourned at 8:25 p.m.

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board