

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
SPECIAL MEETING FOR FY 2014 BUDGET PUBLIC HEARING
117 DICK STREET, 1ST FLOOR, ROOM 118
JUNE 10, 2013, 7:00 PM
SPECIAL MEETING MINUTES

PRESENT: Commissioner Jimmy Keefe, Chairman
Commissioner Jeannette Council, Vice Chair
Commissioner Kenneth Edge
Commissioner Charles Evans
Commissioner Marshall Faircloth
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
Howard Abner, Assistant Finance Director
Kelly Autry, Accountant
Bob Tucker, Accountant
Krista Barnhill, Accountant
Todd Hathaway, Finance Department
Howard Lloyd, Sheriff's Office/Budget
Jody Risacher, Public Library and Information Center Director
Jeffrey Brown, Engineering and Infrastructure Director
Jonathan Charleston, Mental Health Authority Attorney
Sally Shutt, Public Information Director
Candice White, Clerk to the Board
Kellie Beam, Deputy Clerk to the Board
Press

Chairman Keefe called the meeting to order and provided the invocation followed by the Pledge of Allegiance to the American flag.

Chairman Keefe stated the purpose of the meeting was to hear from the public regarding the proposed FY 2014 budget. Candice White, Clerk to the Board, advised there were five speakers signed up for the public hearing.

James Martin, County Manager, read aloud the rules for the public hearing.

This is the duly advertised/noticed public hearing set for this date and time. Chairman Faircloth opened the public hearing.

The clerk to the board called the following speakers:

C. Stewart Stafford – Mr. Stafford stated he was pleased with the proposed budget for the library and asked that the board of commissioners not negotiate it in any way so students can continue to benefit from their use of the library's services.

Carol Knight – Ms. Knight gave a personal testimony of how wonderful the library services have been to her and her family since moving to the community from New York. Ms. Knight stated the library served as the source to launch her business and continues to serve as an extension of her office.

Tina Young – Ms. Young expressed concern that so little money had been put in place for social programs and asked how much money had been put in place at the new Detention Center for inmate reform. Ms. Young stated she would like to know what the Forestry Service does to have been budgeted such a significant amount of money compared to the small amount budgeted for the HIV Task Force.

Mr. Martin advised that if the board of commissioners was satisfied with the FY14 recommended budget and could tentatively agree on the numbers, the budget ordinance could be adopted at the June 17, 2013 meeting.

MOTION: Commissioner King moved to go into closed session for personnel matter(s) pursuant to NCGS 143-318.11(a)(6).

SECOND: Commissioner Evans

VOTE: UNANIMOUS (7-0)

MOTION: Commissioner Evans moved to go into open session.

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

MOTION: Commissioner Council moved to cancel the June 11, 2013 and June 13, 2013 budget work sessions.

SECOND: Commissioner Faircloth

DISCUSSION: Commissioner King asked whether all of the FY14 budget requests had been covered since the \$60,000 had not been appropriated to the Emergency Services Department for the feasibility study and the Spring Lake and Hope Mills chambers of commerce had not been appropriated any funds.

Commissioner Council withdrew her motion which was supported by Commissioner Faircloth. Budget discussions resumed. Commissioner Evans stated agencies requesting community funding should come before the board of commissioners and request the funds, and the board should not just fund the agencies. Chairman Keefe stated Commissioner Evan's statement had merit and the board could discuss further at some future time.

MOTION: Commissioner Council moved to tentatively approve the budget for FY14 based on the additions and subtractions as presented, and request that the budget ordinance be prepared for the regular meeting on June 17, 2013, and furthermore that the June 11, 2013 and June 13, 2013 budget work sessions be cancelled.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (7-0)

Rick Moorefield, County Attorney, advised the budget as tentatively adopted by the board of commissioner contemplated a merger; however the board should consider the merger in advance of adopting the budget. Mr. Moorefield stated it was his desire that the Mental Health Authority be a party to the merger agreement in order to resolve some of the ongoing issues involving the Fund Balance and the real property. Mr. Moorefield stated issues involving employees of the Mental Health Authority appear to have been satisfactorily resolved. Mr. Moorefield stated the Mental Health Authority and Jonathan Charleston, Mental Health Authority Attorney, want to incorporate into the merger agreement that the Fund Balance is available to the Mental Health Authority. Mr. Moorefield stated this is in accordance with Senate Bill which states that any Fund Balance available to a Mental Heath Authority will be distributed to the successor Managed Care Organization (MCO) for the catchment area. Mr. Moorefield stated this is significant and therefore the Fund Balance is an issue.

Mr. Moorefield stated until July, 2012, the state statutes stated that real property acquired for mental health functions for an Area Authority could only be acquired by the county, titled in the name of the county and could only be acquired using federal or local funds. Mr. Moorefield the county has handled the acquisition of real property for mental health functions in this way. Mr. Moorefield stated Mr. Charleston's position is that the real property is equitably owned by the Mental Health Authority and it is Mr. Charleston's position that the county should contemplate the possible exercise of authority by the Secretary of the Department of Health and Human Services (DHHS) to force Cumberland County to convey the real property to Alliance Behavioral Healthcare in the event the merger takes place.

Mr. Moorefield advised that at its June 5, 2013 meeting, the Mental Health Authority voted to authorize its chairman to sign the agreement provided any language that was modified was satisfactory to Mr. Charleston. Mr. Moorefield advised he was opposed to the language suggested by Mr. Charleston because it basically was an acknowledgement by the county that the fund balance and real property were owned by the Mental Health Authority, which was contrary to the way these issues had been handled by the parties to date. Mr. Moorefield stated that if the ownership of the fund balance and real property was an issue, it was an existing issue and was not created by the proposed merger.

Mr. Moorefield stated he had requested Tracy Hayes, Alliance Behavioral Healthcare Attorney, to incorporate as much of Mr. Charleston's language as the Alliance was comfortable with and put together a final draft of a potential merger agreement. Mr. Moorefield responded to questions and stated all the statutes contemplate multi-county authorities and do not distinguish the Cumberland County Area Authority.

Mr. Charleston stated it important that the board of commissioners realize there could be an issue with regard to the ownership of the fund balance because no matter what the contracting parties say in their agreement, it is trumped by the legislature and DHHS. Mr. Charleston stated he will defer and the Mental Health Authority will support whatever language the county chooses to draft; however, he raised the issue so no one would get blindsided. Mr. Charleston stated the same applies to the ownership of the real property.

Mr. Charleston stated another issue is that Alliance Behavioral Healthcare refuses to commit to maintaining a local office in Cumberland County and states in the agreement that it will maintain MCO functions in Cumberland County to the extent practical. Mr. Charleston stated if there is no office in Cumberland County, there are no functions or employees in Cumberland County. Mr. Charleston stated a provision was also inserted that Alliance Behavioral Healthcare would open the provider network for a period of ninety (90) days. Mr. Charleston further stated language was inserted that the board of commissioners shall not be required to appoint any individual to the Area Board that is recommended by Alliance Behavioral Healthcare; however, the Alliance's bylaws state it will recommended who sits on the Area Board. Mr. Charleston stated these are not necessarily deal breakers and the decision will ultimately be made by the board of commissioners. Mr. Moorefield stated Alliance Behavioral Healthcare inserted language that it would not subject any employees to a Reduction in Force (RIF) except in accordance with the law. Mr. Charleston stated that language replaced the language that the Alliance would agree not to have a RIF for a period of twenty-four (24) months or something to that effect. Questions followed.

Commissioner Edge stated the Mental Health Authority and Mr. Charleston were given every opportunity to work out the merger but came back to the board of commissioners with a recommendation that the Mental Health Authority continue to operate under an interlocal agreement. Commissioner Edge also stated the board of commissioners then directed the county manager and county attorney to commence negotiations for a merger. Commissioner Edge further stated at the June 5, 2013 meeting of the Mental Health Authority, the only two individuals who spoke were the county attorney and Mr. Charleston and they challenged every point in the proposed agreement. Commissioner Edge stated he felt things were at the point where language in the agreement could continue to be debated and the board of commissioners was ready to move forward.

MOTION: Commissioner Edge moved to dissolve the local Mental Health Authority at this time and that the board of commissioners assumes those duties and instructs the county attorney to move forward with the agreement between Alliance Behavioral Healthcare and Cumberland County and have it in place by July 1, 2013.

SECOND: Commissioner Melvin

DISCUSSION: Commissioner King asked whether the motion would take the Mental Health Authority out of the process. Mr. Moorefield explained it would; however, neither the merger nor the dissolution of the Mental Health Authority would be effective until approved by the Secretary of DHHS. Mr. Moorefield stated his understanding is that if Mr. Charleston is okay with the language of the two crucial issues, then the Mental Health Authority is willing to execute the agreement. Commissioner Edge stated the board of commissioners gave the

Mental Health Authority and Mr. Charleston the opportunity to work things out but the Mental Health Authority wanted to continue to operate under an interlocal agreement and not merge. Commissioner King stated this was prompted by Senate Bill 208 and the Governor's remarks which changed everything. Mr. Charleston stated Senate Bill 208 is going to be problem. Chairman Keefe stated his understanding was that if the merger agreement was signed by all parties and approved by the Secretary of DHHS, Senate Bill 208 would not be a problem. Mr. Moorefield stated that was correct. Chairman Keefe asked Mr. Moorefield if the only reason his opinion has changed is because the Mental Health Authority has not signed the agreement. Mr. Moorefield responded in the affirmative. Mr. Moorefield stated if the agreement is approved by the Secretary of DHHS, he does not feel it is legally possible for the Secretary to come back and say that something else needs to be done. Mr. Moorefield also stated he did not feel DHHS would compel the county to deed Winding Creek, Bradford Avenue and Roxie Avenue because the way DHHS insures compliance is to withhold state money. Chairman Keefe asked how often the window is opened to mental health contractors. Mr. Moorefield stated there is an annual process and he asked Alliance Behavioral Healthcare to open the provider window for ninety (90) days and the Alliance responded it could not do that. Mr. Charleston stated he felt it would be helpful if the board of commissioners would support having the window open because he felt it was an important issue to work out. Mr. Martin stated it is his understanding and the county's contention is that the real property has never been owned by the Mental Health Authority and has always been owned in the name of Cumberland County Government. Mr. Martin also stated the Fund Balance has always been owned by the Cumberland County General Fund although the county assigned it for mental health purposes. Mr. Martin stated his thinking is that those requirements would not apply because neither has ever been under the direct authority of the Mental Health Authority. Mr. Charleston stated one issue is a statute that says real property purchased with mental health funds has to be titled to the Mental Health Authority and that never happened, and the only reason the question was raised was to put the board of commissioner on notice of the risk. Mr. Charleston stated the second issues is that Senate Bill 208 addresses the Fund Balance and he thinks there is risk that down the road the State may have funding issues and decide to cut the Alliance's appropriation because there is a Fund Balance in Cumberland County. Mr. Charleston stated the Mental Health Authority does not intend to block anything and will support and sign the document and only wanted to bring these risks to the attention of the board of commissioners. Mr. Charleston also stated the interlocal agreement is between Alliance Behavioral Healthcare and the Mental Health Authority which is what currently gives mental health the ability to operate. Mr. Charleston stated should the board of commissioners dissolve the Mental Health Authority, the question will be whether the interlocal agreement will still be binding and whether the Mental Health Authority will then be without the partner that gives it \$500,000 to operate. Mr. Charleston suggested that he and the county attorney complete the agreement in the next day or so, have all parties sign the agreement and be done. Chairman Keefe called the question. Mr. Moorefield asked Commissioner Edge if the intent of the motion was for the board of commissioners to exercise the duties and responsibilities of the Mental Health Authority or just dissolve and move forward with the merger because based on what Mr. Charleston has said, the preferable course of action would be for the Mental Health Authority to sign the merger agreement.

Chairman Keefe asked Commissioner Edge whether he would withdraw his motion to which Commissioner Edge responded in the negative.

Mr. Martin suggested that the board of commissioners give the Mental Health Authority until the end of the day June 14, 2013 to meet and approve the agreement and if they fail to do so, make this action effective June 17, 2013.

VOTE: FAILED (2-5) (Commissioners Edge and Melvin voted in favor; Commissioners Evans, Faircloth, Council, Keefe and King voted in opposition)

MOTION: Commissioner Evans moved that when the board of commissioners reconvenes, that it votes on the issues Mr. Charleston and the county attorney have come up with.

Commissioner Evans withdrew his motion.

Chairman Keefe recalled Mr. Martin's suggestion. Mr. Martin stated actually the Mental Health Authority does not have to meet but can just sign the agreement by close of business June 14, 2013. Mr. Martin stated if the board of commissioners approves this suggestion, the matter will be placed on the board of commissioners June 17, 2013 agenda.

MOTION: Commissioner Council moved to get the signed agreement by the end of the day Thursday, June 13, 2013 and should that fail to happen, Mr. Martin should place on the June 17, 2013 agenda consideration of assuming the duties of the Mental Health Authority and a merger agreement.

SECOND: Commissioner Evans

VOTE: UNANIMOUS (7-0)

MOTION: Commissioner Evans moved to adjourn.

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

The meeting adjourned at 8:55 p.m.

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board