

CUMBERLAND COUNTY BOARD OF COMMISSIONERS  
AND  
CUMBERLAND COUNTY LEGISLATIVE DELEGATION  
MARCH 25, 2014 – 8:00 AM  
ROOM 119, 117 DICK STREET, FAYETTEVILLE, NC  
SPECIAL MEETING  
MINUTES

PRESENT: Commissioner Jeannette Council, Chairman  
Commissioner Kenneth Edge, Vice Chairman  
Commissioner Marshall Faircloth  
Commissioner Jimmy Keefe  
Commissioner Billy King (arrived 8:20 a.m.)  
Commissioner Ed Melvin  
James Martin, County Manager  
Amy Cannon, Deputy County Manager  
James Lawson, Assistant County Manager  
Quentin McPhatter, Assistant County Manager  
Phyllis Jones, Assistant County Attorney  
Melissa Cardinali, Finance Director  
Sally Shutt, Public Information Director  
Buck Wilson, Health Department Director  
Daniel Ortiz, Environmental Health Director  
Jeffrey Brown, Engineering and Infrastructure Director  
Candice H. White, Clerk to the Board  
Kellie Beam, Deputy Clerk to the Board  
Press

ABSENT: Commissioner Charles Evans

LEGISLATIVE MEMBERS

PRESENT: Representative Marvin W. Lucas, 42<sup>nd</sup> District  
Representative Elmer Floyd, 43<sup>rd</sup> District  
Representative Rick Glazier, 44<sup>th</sup> District  
Representative John Szoka, 45<sup>th</sup> District  
Senator Wesley Meredith, 19<sup>th</sup> District

LEGISLATIVE MEMBERS

ABSENT: Senator Ben Clark, 21<sup>st</sup> District

1. WELCOME AND INTRODUCTIONS

Chairman Council called the meeting to order and thanked members of the local legislative delegation for attending. Chairman Council announced Senator Clark and Commissioner Evans were unable to attend the meeting. Introductions followed.

Commissioner Council requested an addition to the agenda as Item 2. Arsenic Contamination on Bullard Circle. There was consensus to add the item.

2. Arsenic Contamination on Bullard Circle

Buck Wilson, Health Department Director, stated the Health Department has been conducting well water samples in the Bullard Circle area and twenty-seven wells have elevated arsenic levels above EPA standards. Mr. Wilson stated seventy wells have been tested and the department is awaiting results on eight wells. Mr. Wilson stated at the time of the community meeting on March 20<sup>th</sup>, fifty-seven wells had been tested and since that meeting other property owners have come forward to take advantage of the testing. Mr. Wilson stated from a public health perspective, residents have been instructed not to drink the water and although a quick fix would be installation of a whole house filter, Jeffrey Brown, Engineering and Infrastructure Director, suggested residents may wish to see whether water can be run to their properties before investing in filters. Mr. Wilson

stated PWC lines are less than 1,000 feet away from the closest house and some property owners at the community meeting favor public water and others do not.

Mr. Brown stated at this time, rough estimates from PWC to bring public water to the area are about \$.5 million. Commissioner Keefe inquired whether the estimate was for rural or municipal water standards. Mr. Brown responded municipal standards with the basic difference being fire protection from a hydrant standpoint. Chairman Council asked whether the issue could be resolved in less than four weeks.

Mr. Martin stated one of the first critical issues is to determine PWC and Fayetteville's willingness to provide the water and whether they will require annexation. Mr. Martin stated the time involved with resolving those issues has to be factored in but he concurs that issues have to be resolved with all due haste and there has to be an aggressive timeline.

Mr. Brown stated a survey has been developed to mail to property owners so the county can gain some insight into their preferred solutions. Mr. Brown stated one option would be for the county to own the water system and be a bulk water purchaser from PWC with the property owners and county bearing all the costs for constructing the system. Chairman Council asked how citizens could be guaranteed that they would not be annexed. Mr. Brown stated the Board could create a water/sewer district for the area and the city could not annex without the water/sewer district agreeing to be dissolved. Mr. Brown stated he did not see matters being resolved in four weeks.

Commissioner King inquired whether there were funds available at the state level. Senator Meredith stated there are funds but the question is whether there are any available that have not already been used or allocated. Representative Glazier stated the Clean Water Trust Fund is now funded at about \$8 to \$10 million per year but again the question is whether it has all been allocated. Representative Glazier also stated the Governor has emergency/contingency funding but use of that funding would have to be explored.

Commissioner Edge inquired regarding federal monies. Mr. Brown stated the county could make application for the State's Clean Water Revolving Fund or the USDA, but the processes are slow and there are no guarantees because the funding is competitive. Mr. Brown also stated the county does not have enough time to pull together an April application for the Clear Water Revolving Fund. Commissioner Keefe asked whether water could be provided under rural standards. Mr. Brown stated that would not be unrealistic. Commissioner King stated due to the close proximity of public water lines, it appears PWC might be the logical choice. Chairman Council stated indications are good for moving forward with the PWC option.

### 3. 2014 Legislative Short Session – NCACC Priority Issues – Goals Status Update

#### A. Reinstate Lottery Funds for School Construction

*Commissioner Edge-Representative Glazier and Representative Lucas*

Commissioner Edge stated since 2009, lottery funds have gone from 40% down to a little above 20% and although he does not expect legislators to immediately find \$3.2 million to put back into the lottery fund, the 40% was taken out of the lottery fund language in last year's legislation. Commissioner Edge stated this means legislators can do whatever they choose with the 40% that was originally dedicated for public school capital projects. Commissioner Edge stated Cumberland County has lost \$20.7 million cumulatively and if that rate of loss continues this coming year, Cumberland County will lose \$6.8 million. Commissioner Edge share information on which the \$6.8 million could provide for the school system. Commissioner Edge asked members of the legislative delegation to leave the funds alone and gradually restore them back to the amount originally intended, which is what people voted on.

Representative Lucas stated the formula for the lottery fund was first devised by a representative from Cumberland County and the county was advantaged by that; however, this raised the attention of others around the state and they could not wait to find a way to change the formula to their advantage. Representative Lucas

stated initially the formula was based on the ad valorem tax rate and Cumberland County has always maintained a relatively high tax rate; counties with lower tax rates did not fare as well with the initial formula and ways have been found and will continue to be found to change the formula. Representative Lucas stated he and most of his colleagues have voted against those changes and although they will continue to do so, they have been losing. Representative Lucas stated lottery funds were designed to supplement not supplant school funding and Cumberland County legislators want the county to continue to get its share of lottery funds.

B. Oppose Shift of State Transportation Responsibilities to Counties  
*Commissioner Edge-Senator Meredith*

Commissioner Edge stated counties continue to hear that secondary roads may be tasked to counties and asked that this remain a state responsibility. Commissioner Edge stated counties in some states are responsible for secondary road maintenance but counties in some states are not responsible for human services because those services are fully funded by the state. Commissioner Edge asked legislators to bring to the attention of those who favor shifting secondary road responsibilities to counties that in North Carolina, counties fund many things counties in other states do not.

Representative Lucas stated he would never vote for pushing a mandate down to counties to fund maintenance of local roads.

Representative Floyd stated as it relates to secondary roads and infrastructure, key components in the Governor's highway plan/HB817 are the Metropolitan Planning Organizations (MPOs) and the Rural Planning Organizations (RPOs). Representative Floyd spoke to the importance of these organizations to municipal and county governments and that they should be involved in local government planning rather than operating independently.

C. Oppose Unfunded Mandates and Shift of State Responsibilities to Counties  
*Commissioner Faircloth-Representative Szoka*

Commissioner Faircloth stated counties are an extension of state government and are to do whatever state government asks, but any restructuring of county responsibilities should include restricting of local revenue sources to meet those responsibilities. Commissioner Faircloth stated the NCACC has given state legislators good grades in this area.

Representative Szoka stated legislators heard loud and clear requests for no unfunded mandates and as legislators worked through tax reform, there were a number of alternative tax plans proposed with some having huge unfunded mandates coming down from the State to local governments; those were defeated and in the overall tax reform act, there were no unfunded mandates that came to municipalities and counties.

D. Ensure Adequate Mental Health Funding  
*Commissioner King-Representative Szoka*

Commissioner King stated there is some anxiety and uncertainty in the mental health community about the consolidation from ten to four Managed Care Organizations (MCOs) and legislators need to be sensitive to and ensure that adequate mental health funding and programs continue. Commissioner King stated this involves a special population that is least able to care for themselves and many of them will rely upon the state to be sure they survive.

Representative Glazier stated he knows the continuum of service varies depending on areas of need and regions of the state. Representative Glazier stated legislators need to know which continuum of services are in the best shape and have a significant number of quality providers and where the continuum of services has the greatest need and the least number of quality providers. Commissioner Edge stated the biggest issue counties are facing reverts back to the state's decision with Medicaid because Medicaid dollars are leaving North Carolina and going

somewhere else; military personnel in the county who qualify are also losing Medicaid dollars. Commissioner Edge stated anything the state can do to help that situation will greatly enhance services provided by the MCOs. Commissioner Edge asked that counties have a voice in their MCOs and do not lose local control.

Commissioner King stated there continues to be a concern among small providers that the movement is towards the larger providers and that restrictions and requirements are heightened to the extent that small providers are unable to survive in the new climate.

Representative Szoka stated the issue of reimbursement is incredibly complicated and has been much more complicated by the Affordable Care Act. Representative Szoka stated one of the issues surrounding the uncertainty is Medicaid and in the past year, over \$1 billion was put into the budget due to the uncertainty of forecasting in the past. Representative Szoka stated at the State level, mental health is part of a larger discussion of how to honor hard working taxpayers to be certain their money is spent in the right place while at the same time meeting the needs of those citizens who have needs. Representative Szoka stated one thing being looked at is privatization of some services and DHHS Secretary Wos's Medicaid solution on the affordable care organizations is also being looked at and will be debated during the short session. Representative Szoka encouraged commissioners to remain involved when discussions occur and share their point of view. Representative Szoka the NCACC is listened to as representing all 100 counties.

Representative Glazier stated in the past there has been about \$2 billion in federal money designated for North Carolina but now that money is going elsewhere. Representative Glazier stated the debate as to whether this is bad or good ought to continue, and the best indicator back to legislators is the cost of the loss of those funds as it relates to county-funded services and agencies. Representative Glazier asked commissioners to continue to advocate and educate legislators.

E. Preserve the Existing Local Revenue Base  
*Commissioner Faircloth-Representative Floyd*

Commissioner Faircloth stated the existing county revenue base should be preserved and counties oppose the redistribution of existing revenues. Commissioner Faircloth asked legislators to be aware of this should something come up in the short session that looks like it might erode local government money or result in any unfunded mandates. Commissioner Faircloth also asked legislators to continue the good work they have done in the past and continue to represent this as one of the NCACC's primary goals.

4. 2014 Legislative Short Session – Other Issues of Importance – Goals Status Update
  - A. Allow More Cost Effective Methods for Second Primary Elections
  - B. Seek Legislation to Expand County Government's Use of 911 Funds, Protect and Enhance Current Funding Streams and Maintain Full Operational Flexibility and Autonomy
  - C. Request the Reduction of Detention Space Requirements in Existing and New Detention Center Facilities in All Counties in North Carolina

Chairman Council spoke briefly to the items above and in the interest of time, asked Commissioner Keefe to introduce Item 5.

5. Jail Health  
*Commissioner Keefe-Representative Szoka*

Commissioner Keefe reviewed the following information and asked State legislators to be aware of Cumberland County's responsibilities for detainees as it relates to their medical costs and the medical needs of those detainees.

Medical costs and responsibilities for detainees in our jail have risen substantially in the past decade. Counties across North Carolina have limited resources and face increasing requirements costs for Medical, prescription and counseling service of detainees.

- I. Cumberland County must absorb ALL costs currently of ALL detainees.
  - a. If a detainee received Medicaid or Medicare prior to being detainee, those programs cease immediately when the detainee is processed thru the detention center.
  - b. Many states have provisions that is the detainee requires care over 24 hours, Medicaid will “kick in” to pay for medical services
- II. State law requires counties to pay the cost of emergency medical services unless the inmate has third party insurance. If a detainee has private or 3<sup>rd</sup> party insurance, that program will continue while the person is in the detention center.
  - a. If a detainee has 3<sup>rd</sup> party insurance, the insurance company is to be billed primary, and the county secondary.
  - b. Currently, BCBS denies all claims for their enrollees if they are in a detention center. (The Health Department is checking to determine if that procedure is the same in other parts of this state or other states). Decision or 3<sup>rd</sup> party to pay has more to do with location of the care than purpose of the care. (i.e., if care was at the hospital, it is approved, if care is at the jail, it is denied.)
- III. Inmates have more severe health problems than non-inmates. This part of our population is much more expensive to take care of.
  - a. Medical
  - b. Dental
  - c. Prescriptions
  - d. Mental Health counseling
- IV. The county has limited resources to pay for jail healthcare costs.
  - a. Last year, we spent over \$2,000,000.00 in jail health cost. Almost 78% of that money was dedicated to personnel.
  - b. This year, we will see almost a 25% increase in costs up to over \$2,600,000.00.
  - c. We have to rely on samples of medications to be able to provide prescriptions. HIV/AIDS prescriptions cost almost \$1,000.00 each dose and we are required to provide them regardless if the detainee has been taking the prescription at any time in the past.
- V. Based on State Statue, Counties can only charge an inmate a “Not to Exceed” NTE amount \$10 per incident. We should be able to charge them more. Currently, anyone, including a detainee gets charged \$25 if they go to our local Federally Qualified Health Center – Wade Stedman Community Health Center.

Conclusion:

The current system of jail health costs, reimbursement and procedure as currently mandated in North Carolina is not sustainable. This population continues to require more services, care and treatment than the non-detainees. The additional costs of providing medical treatment, prescriptions and counseling services seriously impacts North Carolina counties coffers and their ability to administer public health and mental health services to other members of the community that are not detained.

The current strategy allows a citizen without insurance to receive better treatment in our detention facility than they would in the community. There is a case that there is a true benefit to being detained to receive medical and mental health care. A large portion of our detainee population has significant medical and mental health issues. Jails and detention centers throughout North Carolina had transformed themselves from pre-trial detention to long term medical and mental health clinics or centers.

Many of these issues could be resolved if the State initiated or would allow individual counties to enter into a basic insurance program for detainees and clinically diagnosed mental health patients that would allow for them to retain 3<sup>rd</sup> party insurance and receive the care, medication and counseling required to keep them out of our jails and emergency rooms. This type program would benefit the state of North Carolina, Cumberland County, Our Detention Center, and most importantly the clients who need care much more than they need detention.

Commissioner Keefe asked legislators to come up a solution to get treatment in a form other than through the jails.

Representative Szoka stated now that details are known, legislators will look at it and attempt to come up with a plan along with everything else that is going on in Medicaid and the healthcare system. Representative Szoka stated the upcoming short session is projected to be short and he does not know whether there will be time for legislation to be developed to handle the issue to the county's satisfaction. Representative Szoka stated this does not mean legislators won't tackle it.

Representative Glazier spoke to a risk assessment used in Kentucky that is being piloted in Mecklenburg County in an effort to reduce jail populations in a manner that will transition to community services and not put detainees back on the street. Representative Glazier asked whether the commissioners or the NCACC were aware of other models that could serve as a solution. Commissioner Keefe stated that is currently being researched. Representative Glazier stated he would like to be involved and suggested that the Commissioner of Insurance and major companies in North Carolina involved in some of the discussions with commissioners and legislators about the creation of a special product or service.

Discussion ensued as to whether the county was enrolling or providing an avenue for detainees to enroll in the federally mandated Affordable Care plan. Mr. Wilson stated a study is being conducted and information should be available around mid May.

Commissioner Faircloth spoke to reform needed in the State's criminal justice system.

#### 6. Other Items of Business

Chairman Council provided closing remarks and thanked everyone for their contributions to the meeting.

Mr. Martin briefed the Board on issues that have arisen since the county created the Wellness Accountability program in 2013. Mr. Martin stated management believes the best course of action is to delay the Spring 2014 Wellness Fair until these issues are resolved. Mr. Martin stated Mark Browder will be at the April 3<sup>rd</sup> meeting of the Finance Committee to provide information about some of the changes in federal rules and guidelines. Mr. Martin stated this will not affect April's open enrollment.

MEETING ADJOURNED: 9:40 AM

Respectfully submitted,

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Candice H. White  
Clerk to the Board