

JULY 12, 2011

**MINUTES OF MECKLENBURG BOARD OF COUNTY COMMISSIONERS
NORTH CAROLINA
MECKLENBURG COUNTY**

The Board of Commissioners of Mecklenburg County, North Carolina, met in Special Session in the Meeting Chamber Conference Room of the Charlotte-Mecklenburg Government Center located at 600 East Fourth Street at 3:00 p.m. on Tuesday, July 12, 2011.

ATTENDANCE

Present: Chairman Jennifer Roberts and Commissioners Karen Bentley, Dumont Clarke, Harold Cogdell, Jr. Neil Cooksey, George Dunlap, Bill James Vilma Leake and Jim Pendergraph County Manager Harry L. Jones, Sr. County Attorney Marvin A. Bethune Clerk to the Board Janice S. Paige

Absent: None

Commissioners Bentley and Dunlap were absent when the meeting was called to order and until noted in the minutes.

The meeting was called to order by Chairman Roberts.

The purpose of the meeting was to discuss Mecklenburg County's contractual relationship with the Charlotte Mecklenburg Hospital Authority.

Chairman Roberts called on County Manager Jones to present this matter to the Board. He was assisted in the presentation by General Manager Michelle Lancaster and Chief Compliance Officer Deputy County Attorney Tyrone Wade.

County Manager Jones noted the following handouts that were provided to the Board as information:

- List of Carolinas Healthcare System (CHS) Board of Commissioners and date of appointment
- Carolinas Healthcare System 2010 Compensation, per The Charlotte Observer January 27, 2011
- Letter from the County Manager to Michael Tarwater, Chief Executive Officer, Carolinas Healthcare System dated July 11, 2011
- Letter from County Attorney Marvin A. Bethune to Caroline T. Wilson, Senior Associate General Counsel, Charlotte-Mecklenburg Hospital Authority dated July 11, 2011 – Re: CDW Data Run & Pre-Competency Evaluations
- Email exchange between General Manager Michelle Lancaster and Greg Gombar, Chief Financial Officer, Carolinas Healthcare System dated March 4, 2011
- Letter from County Attorney Marvin A. Bethune to Caroline T. Wilson, Senior Associate General Counsel, Charlotte-Mecklenburg Hospital Authority dated July 11, 2011 – Re: Pre-Competency Evaluations
- Email exchange between General Manager Michelle Lancaster and Greg Gombar, Chief Financial Officer, Carolinas Healthcare System dated July 1, 2011
- Email exchange between Dr. Elizabeth Peterson-Vita, Mecklenburg County Area Mental Health and Carlos Hernandez, Interim Director of Area Mental Health dated June 30, 2011 – Subject: Pre-competency Evaluations

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- Email exchange between Dr. Elizabeth Peterson-Vita, Mecklenburg County Area Mental Health and Tom Gettelman, Carolinas Healthcare System dated April 26, 2011 – Subject: Pre-Competency Evaluations
- Letter from County Attorney Marvin A. Bethune to Caroline T. Wilson, Senior Associate General Counsel, Charlotte-Mecklenburg Hospital Authority dated July 7, 2011 – Re: Carolinas Medical Center-Randolph/CDW Data Run
- Email exchange between General Manager Michelle Lancaster and Michael Tarwater, Chief Executive Officer, Carolinas Healthcare System dated July 7, 2011 – Subject: July 12 Public Policy Workshop Invitation
- Email exchange between General Manager Michelle Lancaster and Michael Tarwater, Chief Executive Officer, Carolinas Healthcare System dated July 6, 2011 – Subject: July 12 Public Policy Workshop Invitation
- Information on the expansion of the 1915(b)(c) Medicaid Waiver for Mental Health, Developmental Disabilities, and Substance Abuse Services
- Letter from Finance Director Dena Diorio to Greg Gombar, Chief Financial Officer, Carolinas Healthcare System dated May 18, 2011 regarding CMC Randolph
- Letter from Carlos Hernandez, Interim Director of Area Mental Health Director to Laura Thomas, President, CMC-Randolph dated June 29, 2011 regarding Utilization Data
- Memorandum from County Manager Jones to the Board of County Commissioners dated July 7, 2011 – Re: Carolinas HealthCare System
- Letter to Chairman Roberts from Larry Dagenhart, General Counsel for Charlotte-Mecklenburg Hospital Authority dated July 5, 2011
- Letter from County Manager Jones to Michael Tarwater, Chief Executive Officer, Carolinas Healthcare System dated June 3, 2011
- Issues for the Board's consideration

Copies of the handouts are on file with the Clerk to the Board.

County Manager Jones said at tonight's Regular Board meeting, he would ask the Board to authorize him to give notice of termination to the Charlotte-Mecklenburg Hospital Authority effective June 30, 2013 of the Restated Consolidated Shared Programs Joint Undertaking Agreement between Mecklenburg County and the Charlotte-Mecklenburg Hospital Authority dated November 2, 2000.

County Manager Jones noted the following:

- Termination would be pursuant to Section 4b of the agreement.
- Section 4b allows termination by either party upon a 14 month notice.
- Termination of the agreement would mean effective July 1, 2013, Mecklenburg County would no longer have responsibility to subsidize in any way the Charlotte-Mecklenburg Hospital Authority's deficits related to their providing comprehensive hospital-based psychiatric services.
- The County would no longer have the responsibility to pay the Charlotte-Mecklenburg Hospital Authority to manage and provide most health department services.
- The County would have to manage and provide for all health department services as it did for close to 100 years prior to 1995; or contract with others to provide some, or all of the services.
- No county in North Carolina has contracted with a local hospital system for the management and operation of its health department like Mecklenburg County.
- For reasons of public policy, there should be a closer nexus between the manager of public health services, in the County's case, CHS, and the public health policy makers, in the County's case, the Board of County Commissioners.
- The County could terminate the agreement right now for cause, however, that's not the recommendation.
- The Charlotte-Mecklenburg Hospital Authority, which does business as Carolinas HealthCare System, was in breach of the agreement with the County.

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- On June 3, 2011, the County Manager wrote Michael Tarwater, Chief Executive Officer, Carolinas Healthcare System regarding their breach of the agreement for failure to provide the County with certain data and information required by the terms of the agreement.
- The breach continues with new contract violations occurring on July 8th and 10th related to their failure to submit state consumer data warehouse information and pioneer information as required by the agreement.
- Unrelated to the first breach, another notice of breach was sent to Mr. Tarwater from the County Manager on July 11, 2011 regarding CHS' "failure and refusal" to provide pre-competency psychological evaluations for DSS-Adult Protective Services as required by the agreement.
- If the contract breaches aren't resolved soon, it is likely the County Manager will ask the Board to terminate the agreement sooner than June 30, 2013.
- The County Manager does not intend to authorize payments to CHS for hospital-based psychiatric services until the breaches are "cured."

Commissioner Bentley entered the meeting.

General Manager Michelle Lancaster addressed facts surrounding the breach. The following was noted:

- The 2000 agreement requires the County to pay the Charlotte-Mecklenburg Hospital Authority's operating deficit.
- The County requested information regarding utilization of the facility, patients average length of stay and other items related to cost and capacity.
- Per a hospital authority consultant, non-Mecklenburg County residential utilization of the facility appears to be higher than the national average.
- The County believes the facility could be taking on a regional usage, perhaps to the "detriment" of Mecklenburg County taxpayers.
- Recently the Charlotte-Mecklenburg Hospital Authority provided some information through its attorney, in response to requests made in March.
- The information received raised even more questions for the County.
- Some of the information received from the Charlotte-Mecklenburg Hospital Authority isn't understandable without more detailed explanation.
- The agreement specifically provides that by the 8th of the month, the Charlotte-Mecklenburg Hospital Authority is to provide the County with consumer data warehouse information and by the 10th of the month County billing data.
- The consumer data warehouse and pioneer data are North Carolina data requirements.
- The Hospital Authority in the past has refused to provide the County with this information.
- Recently the Hospital Authority did catch up one year's worth of data, however, they've been late for the month of July.
- The Hospital Authority has IT difficulties fulfilling the state/county contract requirements.
- All other County behavioral health contractors provide this data to the County on a daily basis.
- They have not provided psychological evaluations for DSS-Adult Protective Services matters as required by the agreement.
- There were financial questions the County asked and some of the responses have been incomplete, not thorough, and some questions haven't been answered.
- Some of these same types of questions were asked in the past, dating back to 1999.

County Manager Jones acknowledged that an invitation was extended to both local hospitals, Carolinas HealthCare System and Novant Presbyterian, to attend today's meeting. County Manager Jones said Carolinas Healthcare System declined to attend, but that Novant Presbyterian's CEO Mark Billings was present.

Prior to calling upon Chief Compliance Office Tyrone Wade, County Manager Jones said the County

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could not administer its contracts and assess community needs without relevant data and information and on-going direct communications with its partners. "In fulfilling its fiduciary responsibilities, the County expects all of its contractors to provide full cooperation, answers to questions, and timely responses to requests for information as a condition of doing business with the County."

County Manager Jones said "compliance rules either apply to all County contractors or they apply to none of them." He said they "cannot, nor should not, be applied selectively."

Chief Compliance Officer Tyrone Wade addressed contract compliance issues. The following was noted:

- His concern was the integrity of the data received, which is then submitted to the state.
- Per review of the contract, CHS was required to provide the data as requested by the County.
- Per dialogue with staff, the County has requested the consumer data warehouse information consistently but has been met with resistance from CHS.
- CHS has never provided all the required consumer data warehouse information, but rather pieces of that information has been provided to varying degrees, but never all of the required information.
- As a result of that, the County has had to resort to other measures to secure some of the additional information.
- From a compliance perspective, the County should be concerned when a vendor refuses to comply with the terms of the agreement.
- CHS is not in compliance with the terms of the contract and the commitment they've made.

County Manager Jones noted for the record that this was his first time hearing Chief Compliance Officer Wade's findings and concerns.

Comments

Commissioner Cooksey asked how much of the information requested by the County was state required. *Chief Compliance Officer Wade said it was his understanding that there was a 57 question form from the state that has to be completed. He said it's all state required information.*

Commissioner Cooksey asked whose responsibility was it to complete the form. *Chief Compliance Officer Wade said the County submits the information to the state but the information is captured from the provider of the service.*

Commissioner Cooksey asked was CHS, an entity of local government, subject to the open records law. *County Attorney Bethune said he was not sure, but that CHS has never stated they weren't providing the information because it was protected information.*

Commissioner Cooksey asked was it that CHS isn't able to provide the information. *Chief Compliance Officer Wade said it was his understanding that they haven't been able to make some of the changes needed to update their computer system to capture the data.*

County Manager Jones said an additional reason for termination was because it was not a core business of county government in North Carolina to provide or deficit fund hospital-based psychiatric services. He said the cost to Mecklenburg County totals approximately two cents of its current tax rate and was escalating.

County Manager Jones said most North Carolina counties do not subsidize these services at all and the one's that do, do so to a significantly less extent than Mecklenburg County.

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County Manager Jones said Mecklenburg County could no longer afford the current arrangement.

County Manager Jones said for the public policy reasons that staff has stated, he believed it was in the best interest of the County to terminate the joint undertaking agreement effective June 30, 2013. Further, that an additional reason for terminating the contract effective June 30, 2013 was because Mecklenburg County will, no later than July 1, 2013, (the N.C. Division of Health and Human Services would prefer the County to begin in January 2013), assume the state's role of managing Medicaid funding for mental health, substance abuse and developmental disabilities services in Mecklenburg County. County Manager Jones said this could be problematic if the current contract with the Hospital Authority also required the County to subsidize the funding of these very services.

County Manager Jones said the changing role would come about through what was known as a federal 1915 (b) (c) Medicaid Waiver and as a result of this Mecklenburg County would be thrust in a role with greater regulatory and oversight responsibilities. Thus, the County would need to avoid the potential for creating conflicts in its role as a Local Management Entity (LME) on the one hand and a contract manager on the other.

General Manager Lancaster addressed the County's role as a result of the Medicaid Waiver and as a LME. It was noted that this change would require additional staff. The initial estimate is 100+ new staff. General Manager Lancaster said thought was being given to using the CMC-Randolph location to house the additional employees if it's not going to continue to be used in the manner that it's currently being used.

Chairman Roberts asked with respect to the potential conflict as a result of the Medicaid Waiver and being an LME, if that meant beginning January 2013 the County couldn't have contracts with any comparable provider or anyone who might be managing Medicaid. *Carlos Hernandez, Interim Area Mental Health Director responded and noted that the County would have a fee for service arrangement with providers for in-patient care.*

Chairman Roberts asked if there was a CHS representative present. One person was present, a Government Relations Specialist who was assigned to attend and take notes.

Commissioner Cogdell asked if it was correct that any contract management function creates an inherent conflict when the County gets into the Medicaid Waiver/LME. *General Manager Lancaster said if deficit funding was provided it would.*

Commissioner Bentley asked staff to address the approval process used for Novant Presbyterian to obtain additional beds and that of CHS. *General Manager Lancaster responded. It was noted that last year the County became aware that money was available from the state that could pay for additional in patient capacity (eight beds) in Mecklenburg County. CHS was approached by former Area Mental Health Director Grayce Crockett and General Manager Lancaster regarding this and they declined the offer.*

Commissioner Bentley asked when this was. *The response was July or August of 2010.*

General Manager Lancaster said former Director Crockett then asked if she could approach Novant Presbyterian regarding the additional beds, which she was authorized to do. Novant Presbyterian accepted the offer and the agreement is in its final stages of being finalized.

Commissioner Bentley asked staff to comment on the events that occurred and resulted in CHS' request for 44 additional beds. *General Manager Lancaster said CHS approached the County in March, 2011 to sign off on an agreement for the transfer of 44-beds. They were informed by the County Manager and General Manager Lancaster that they were not in a position to sign the agreement until they understood the impact those beds would have on the behavioral health center given the relationship the County has with the total cost contract. General Manager Lancaster said*

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over the next several months CHS sought special legislation during the past legislative session and they were granted not to have an agreement between their hospital system and Mecklenburg County for those beds to be transferred. General Manager Lancaster said CHS was now going through the normal Certificate of Need process, which was the next step.

Commissioner Bentley asked what type of turnaround CHS was looking for when they approached the County back in March. *County Manager Jones said they wanted it by the next day because of a meeting they were having.*

County Manager Jones said they also attempted to get Chairman Roberts' approval and when that failed, he would assume that's when they decided to go to the General Assembly.

Commissioner Dunlap entered the meeting.

Chairman Roberts asked about the Needs Assessment that was completed in December 2010.

General Manager Lancaster said the Assessment basically indicated that if nothing changes in the way the continuum works for area mental health that there would be a need for considerable beds in the community over the next 15 to 20 years.

General Manager Lancaster said staff never disputed the need for beds. She said the focus for the County was on the financial relationship the County has with respect to the Behavioral Health Center and the answers the County had been seeking regarding that financial relationship.

General Manager Lancaster said aside from bed need the assessment mentioned numerous things about efficiency of the operations, average length of stay and re-admission rates.

General Manager Lancaster said when she read the report, she didn't "automatically go to, we've got to have new beds." She said her thoughts went to "what can we do different with the beds we have" and were there things that could be done to eliminate such an enormous need for in-patient capacity in the community.

Chairman Roberts asked was the assessment an internal study. *General Manager Lancaster said it was a CHS study.*

Commissioner Bentley asked County Manager Jones to comment on his vision for a Blue-Ribbon Committee, which he did.

County Manager Jones said the 1915(b) (c) Medicaid Waiver changed his original recommendation of a three-year phase out.

Commissioner Bentley asked whether interest been expressed by either of the hospitals about participating on a Blue-Ribbon Committee. *County Manager Jones said Novant Presbyterian indicated its assistance to Mecklenburg County in any way to assist in any transition the County may have to undertake.*

County Manager Jones said he had not received that same type of "commitment or desire" from CHS.

Commissioner James asked for clarification regarding the 1915 (b) (c) Medicaid Waiver and the County's LME role, which was addressed by General Manager Lancaster and Interim Director Hernandez.

Commissioner James asked what the cost estimate was for the additional staff that would be needed. *Staff said they would have to get back with that figure.*

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Commissioner Cogdell asked about risks involved with the new LME. *General Manager Lancaster said counties going forward would not take on any risks for managing the Medicaid Waiver.*

Commissioner Cooksey asked about the future of the Randolph facility. He questioned whether the facility should be used for office space if there's a shortage of beds. *General Manager Lancaster explained that any decision the Board made would not eliminate beds.*

General Manager Lancaster said the beds aren't owned by the County and that the County was not a hospital provider. She said the County owned the building that happens to have hospital beds in it.

General Manager Lancaster said the beds were licensed to CHS. She said CHS could move those beds to any of their facilities. Further, that they can't give the beds back to the County, if the County didn't want them; further that the County was not in the hospital business.

Commissioner Cooksey asked if using the building as office space was the best use of the facility based on its current design and what it's presently being used for. *General Manager Lancaster said at least half, if not more, of it was office space.*

Commissioner Cooksey asked what the options were for CHS. *General Manager Lancaster said that question would have to be answered by CHS.*

Commissioner Leake asked were the patients local residents or out of county. *General Manager Lancaster said the number of out of county clients range from 18%-23% usage. She said the greatest percentage was Mecklenburg County residents.*

Commissioner Leake asked was the County financing out of county residents. *County Manager Jones said staff couldn't answer that question specifically because staff has not been able to get the information from CHS to conduct that type of evaluation.*

County Manager Jones in response to Commissioner Cooksey's question said the County would have to take CHS on their word that they'll continue to provide those 66 beds under their license.

Commissioner Cooksey said in his opinion the Randolph facility should continue to be used as a behavioral health center and that perhaps something could be worked out with CHS for their continued use of the facility, where they would pay the County enough money to help pay the capital cost on that facility going forward.

Commissioner Dunlap asked was it correct that if CHS has the license for the beds, then they control who gets the bed. *The response was yes.*

Commissioner Dunlap asked if CHS decided to move those beds from the current facility, could the County offer that space to another institution that could offer beds for mental health.

County Manager Jones said he would expect that if that space became available that there would be other entities coming to the County to use the facility in the manner for which it's being used.

Commissioner Cogdell with respect to the consumer data warehouse information that's been requested, asked how confident was staff in determining what the deficit number was. *County Manager Jones said staff did not know what the "true" deficit was and wouldn't know until the information was received.*

County Manager Jones said the County was paying \$20 million for a deficit, but didn't know if it should be paying less or not.

Commissioner Cogdell asked how confident staff was that there was a deficit. *County Manager*

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Jones said that was a good question. He said there may not be a deficit. He said it was a difficult question to answer, but he would assume that there would be a deficit in the operation of that facility, but without the ability to do the analytics, it's difficult to answer.

County Manager Jones said it would be the best of “all worlds” if the County could have cooperation, so that there could be “full accounting” to the public about how its money was being spent and whether or not the funding that the County was using was being spent in a fashion that made the best business sense in terms of support of the agreement that the County had around paying for deficit funding.

Health Department

Health Director Dr. Wynn Mabry addressed the transfer of public health services to CHS in 1995 and what the proposed termination of the contract might mean for the Health Department. Dr. Mabry noted that he would be speaking to the Board as the Board of Health. The following was noted:

- The Health Department has been successful during the 16 year partnership with CHS.
- Performance has not been an issue.
- It's uncertain if the contract has saved the County money because a cost analysis has never been done to determine that.
- There's speculation that in some areas it saved the County money and in some areas it did not.
- If the contract is terminated by either party, the current CHS Health Department staff would probably transition to County employment. However, the County has to be careful, when reflecting back on past history, specifically in 1995, when less than 5% of those eligible to transition to CHS, did not.
- Health Department staff perceived this situation somewhat in a negative manner due to a lack of feedback and information about how the process was progressing and why some things were happening.
- In 1995 the transition was viewed differently because there was “trust and confidence” with respect to the risk that was being taking, but there was a willingness to try a new and innovative process on the part of both parties.
- CHS Health Department staff feels they're the victims, because they've done nothing wrong and that by every criteria they're successful.
- CHS Health Department staff feels that if they haven't done anything wrong, why do they “deserve this dramatic change in their professional lives.”
- As Health Director he's dealing with a staff that's somewhat “confused, frustrated, and some were even angry about the situation.”
- It was something that as good leaders can be managed and will take a joint leadership commitment to do so.
- There was some concern that CHS and Novant Presbyterian markets may be more attractive to some employees.
- The key factor in successfully transitioning the CHS Health Department staff will be the retention of the CHS senior and middle level managers.
- The County will need to do everything it can to preserve the leadership that staff has trust and confidence in.
- The transition to County operations will be challenging.
- It will take an expert transition team to help explore many of the questions that can't be answered at this time.
- Human Resources representatives who understand the local medical market and the salary and benefit differentials will be needed.
- Information Technology experts will be needed who understand medical systems because there will be many systems that will need to be converted from CHS' system to the County's.

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- Real Estate staff is needed that understands that most of the medical supplies, equipment, and furniture have been a part of the CHS system.
- A new clinical lab will be needed because the CHS lab is part of their main laboratory system.
- Multiple medical information systems will need to be converted to County operations.
- The County's pediatric dental clinic may have to be relocated because it's currently embedded in CHS' Biddle Point Clinic.
- The County will have to get into buying new stocks of drugs and medical equipment and probably at a higher rate than with CHS.
- Clinical pharmacies would have to be reestablished.
- The challenges are not insurmountable, but they have to be met with a spirit of cooperation with CHS.
- The County can maintain or rebuild the Mecklenburg County Health Department capacity in the future to successfully provide the ten essential services that the County has been told it does quite well.
- This transition can be done but it's not just a "flip of the switch."
- Time will be needed to thoughtfully implement a transition plan and will require a transition team.
- The transition team will need to include specialists in the following areas: HR, IT, real estate and logistics.
- Once a transition plan is developed, the Board will be asked to provide resources to implement the plan.
- As staff goes through this transition, be reminded that the Health Department was already getting committed to having a primary role in supporting the Democratic National Convention in September 2012, here in Charlotte/Mecklenburg County.

Comments

Chairman Roberts said per Dr. Mabry's comments, it sounded like there would be a lot of expense on the County's part. Chairman Roberts posed the question to Dr. Mabry that if the Health Department services portion of the contract was a separate contract with CHS, was there any "compelling" reason to end the Health Department services relationship with CHS. *Dr. Mabry said there were no performance problems and that there were no major concerns as far as the staff stability, its performance, quality of care, or customer service.*

Chairman Roberts asked had there been any discussion regarding having a separate contract and/or a separate timeline for Health Department services. *Dr. Mabry said this was something perhaps the Blue-Ribbon panel could help answer.*

County Manager Jones said for the last six years there's been about an 80% increase in expenditures on the Health Department side of the contract.

County Manager Jones said Dr. Mabry shared a number of issues, however, the point he (County Manager) has tried to make, is that it's not different from the issues that the County dealt with in 1995.

County Manager Jones said staff would be very methodological, deliberate and analytical in presenting the Board a "sound" transition plan.

Commissioner Dunlap said he had concern about the idea of trying to salvage pieces of the contract. He said either the County was going to try and salvage it as it is or leave it alone.

Commissioner Dunlap said if the County got further down the road in a few years and there's only one piece, then it might begin to question whether CHS was really billing the County for what it should be billed for or were they trying to "catch up" on some of the money that was lost.

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Commissioner Dunlap said you either work to salvage the contractual relationship that you have or you dissolve it and look for another way to do it.

Commissioner Dunlap said he was not concerned about being able to get persons to work for the County's Health Department.

Commissioner Pendergraph said he couldn't understand why since 1999 the County hasn't been receiving information that's been requested. He asked was the information and/or questions requested, "hard questions." *County Manager Jones said not in staff's opinion.*

Commissioner Pendergraph said there had to be a reason that hadn't been heard yet as to why CHS won't respond. Commissioner Pendergraph asked had CHS just refused, said they don't capture that data, their information system can't provide the information, or they just don't respond.

County Manager Jones said the answer was all of the things Commissioner Pendergraph mentioned.

County Manager Jones said on March 14, 2011, he, along with Finance Director Dena Diorio and General Manager Michelle Lancaster met with principles from CHS and was told the "relationship felt different."

County Manager Jones said his response to that was "it is different because now we're asking the questions twice." County Manager Jones said "we're in an atmosphere and environment where the Board of County Commissioners has said to him, as County Manager, that their expectation of him as Manager was that he was going to manage contracts and the County was going to have a culture of "compliance."

County Manager Jones said he believed the relationship for "too long," and maybe he was guilty, as well as other staff, but that staff was not as "persistent" as it was today about holding CHS accountable for the terms set forth in the contract.

County Manager Jones said he didn't like being in this position, but had "no other choice" than to make the recommendation he was making, because it was clear to him that CHS had an "adamant" refusal, "to date," to provide the information required under the contract.

Commissioner Pendergraph asked County Manager Jones if he had any opinion as to why they're refusing to give the information.

County Manager Jones said he works from the following premise, "relationships are built on trust and cooperation and if you're in a relationship and all of a sudden someone gets silent on you and they refuse to give some information or their behavior changes, I have not used these words publically, but I become suspicious that there's something you don't want me to know." County Manager Jones said that might be more "personal than professional" but that's his opinion.

Commissioner Clarke said it did feel like a different atmosphere. He said it felt a little like "a civil trial with only one party presenting the evidence and no cross examination of the witnesses."

Commissioner Clarke asked would it be worth considering, instead of terminating the contract, giving notice that the County intends to terminate it, proposing that we engage in mediation over the dispute.

Commissioner Clarke said he would suggest that if the Hospital Authority was willing to do that, that the cost be shared for the professional mediation and that the parties start by exploring the possibilities.

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Commissioner Clarke said he believed there were parts of the contract that it would be in the best interest of the citizens of Mecklenburg County for the County to retain.

Commissioner Clarke said it would not be unreasonable to completely renegotiate as part of the mediation, the amount the County pays as a subsidy. Commissioner Clarke said he realized, however, there were complications now because of the conflict of interest issue and that it may not be possible to do so.

Commissioner Clarke said he would at least like to suggest mediation as an alternative to the termination.

Commissioner Clarke asked was it “reasonably possible” that termination of this contract, if the Board voted to give notice of termination, that rather than the County taking on the performance of all services currently being done through the contract, would the County contract the with the other half of the healthcare monopoly that exists within the county, that being Novant Presbyterian.

County Manager Jones said with respect to health care that the Board could decide to take it back and run it, or it could contract all or a portion of it with another entity. He said if Presbyterian/Novant would be interested in that arrangement, then that would be an option for the County.

County Manager Jones with respect to Commissioner Clarke’s proposal regarding mediation said the proposal may be complicated by the requirements that were being imposed upon the County as an LME effective 2013, either January or July.

County Manager Jones said it’s a real conflict to be an LME and simultaneously serve as a contract manager.

County Manager Jones said the other concern he had was that while you’re in this proposed mediation, what then would be the Board’s expectation of the County Manager and staff around contract management.

County Manager Jones said if “we continue the relationship as it currently is and the behavior on the part of CHS remains as it is”, he has “strong belief” that in August or September, he would be back to the Board, saying the County needed to terminate even earlier than 2013 for breach.

County Manager Jones said to mediate and to continue services with CHS, puts him and the Board in a position that could cause some to conclude that the County was being selective in its compliance efforts.

County Manager Jones said there were other contracts that the County would continue to manage and that he felt the Board expects of him that if there’s a non-compliance issue, that the County would deal with the remedies set forth in those contracts.

Commissioner Clarke said even if the County Manager’s recommendation was approved, the County would still have a contract with CHS through two years from now and that staff would still have to monitor compliance with that contract. He said this would continue, despite the mediation.

Commissioner Clarke said he was not suggesting the Board direct the County Manager to go in and come back with an agreement. He said he was suggesting the County Manager should try, with the assistance of a professional mediator.

County Manager Jones said CHS had already proposed getting out of the relationship. County

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Manager Jones said they've sent a proposal supporting the elimination of the indigent care funding, a proposal to get out of the hospital and public health, next year. Further, CHS sent a proposal to go beyond three years for indigent care. Thus, the County was already at a point where CHS had said they wanted to end the relationship.

County Manager Jones said his proposal to do it in 2013, puts the County in a better position to end the contract in 2013 because of the complications associated with the Medicaid Waiver.

County Manager Jones said he had no choice but to recommend to the Board what he has recommended. County Manager Jones said it had been a valuable relationship and that CHS provided a valuable service to the community.

County Manager Jones said the County should not, however, treat CHS any differently. County Manager Jones said what if the County decided to terminate the contract and then Presbyterian said it wanted to come forth and operate the Health Department, he said the Board would not expect him to hold them to any lesser standard, than the County was currently holding CHS.

County Manager Jones said the difficulty staff was having was that the County has a number of contracts with agencies that provide healthcare services or other services in the community that the County will hold accountable and expect answers to its questions.

Commissioner Dunlap said the County Manager's last statement regarding contracts the County had with other agencies, made it little clearer for him. Commissioner Dunlap said he "pretty much" agreed with the County Manager's assessment.

Commissioner Dunlap said what caused him concern was that the County wants to hear something from CHS but hasn't and he understands it's their right not to respond.

Commissioner Dunlap said the County probably hadn't heard from CHS because if there was a possibility of some future litigation, they wouldn't want to come in a public forum and make statements.

Commissioner Dunlap said he agreed with the County Manager that if the County doesn't hold CHS accountable, then you can't expect that the County was going to hold everyone else accountable and the others not be concerned about that. Commissioner Dunlap said everyone has to be treated the same.

Commissioner James asked with respect to the Blue Ribbon Committee and the County Manager's forthcoming recommendation, was it correct that the committee would not be about whether to have a contract, but about the other issues, such as how should the County handle the Health Department issues and other issues related to getting out of the contract and moving forward.

County Manager Jones said the Committee would address how to provide psychiatric services going forward in the community.

Commissioner Cogdell said there was an offer on the table from CHS that had four parts. He said the first part of the offer the Board had already taken action on and CHS had agreed and that's the termination of indigent care funding. *County Manager Jones said that was correct.*

Commissioner Cogdell said the second part was the difference in the County Manager's recommendation in what's being offered, the \$7.5 million, that the County Manager was recommending was a \$7.5 million less in a reduction in funding for CMC-Randolph over the next three years from what CHS is offering.

County Manager Jones said the \$7.5 million savings results from termination in 2013 as opposed to termination in 2014.

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Commissioner Cogdell asked was it correct that ultimately the recommendation was consistent with what CHS offered with the exception of the \$7.5 million.

General Manager Lancaster said there were other differences. She said some of the nuances of this were that the contract the County has now contains requirements, the things that staff have talked about regarding non-compliance, that CHS doesn't represent in their offer. Thus, the way County staff sees it, those compliance efforts would not be there going forward.

General Manager Lancaster said this was "a different deal." She said the County would be paying for mental health services with no information.

Commissioner Cogdell said that sounded like what's occurring now. *General Manager Lancaster said but under the current contract the County could get out of the agreement immediately under the terms of breach if the Board chose to do so, but with what CHS proposed the County would not have that benefit.*

Commissioner Cogdell said "in fairness" to CHS, their legal counsel has stated CHS did not agree with staff's interpretation as to whether or not the County has the right to discontinue funding.

Commissioner Cogdell said the way he saw it, the County Manager's recommendation was to phase out the agreement and CHS's was to phase out the agreement, except CHS' recommendation was to phase it out without any understanding of continuing to provide information that the County has requested. *General Manager Lancaster said the County would be a "funder" only.*

County Manager Jones said his recommendation was a phase out only because of the termination requirement of fourteen months notice to occur at the end of the fiscal year. County Manager Jones said, had the County been in this position in March of this year, he would have been to the Board to say lets terminate before April 30 and the date for termination proposed would have been July 2012, but because we're in the current fiscal year the next end of the fiscal year availability would be 2013.

Commissioner Cogdell asked for clarification of the offer with respect to the CMC-Randolph facility.

County Manager Jones said his reaction to CHS' proposal was to reject it. County Manager Jones said now CHS wants to lease the facility for a year. He said he had previously offered to them that he would go to the Board and recommend they be allowed to get the facility for a \$1 per year. County Manager Jones said that was predicated upon CHS assuming full cost for the funding of the deficit. He said the County would get out of it and CHS would get the facility.

County Manager Jones said what CHS was proposing now was to continue a funding relationship with the County continuing to pay CHS and also give them a valuable asset of \$20 million or so.

County Manager Jones said as a "responsible" manager, he would not recommend that to the Board.

Commissioner Cogdell said his only reservation with supporting the County Manager's recommendation was that he felt Commissioner Clarke's suggestion was reasonable, but asked was there any way his suggestion could be for one specific provision, which would be around the Health Department; whether or not a mediator would be appropriate to look at the existing agreement to determine whether or not any modifications can be agreed to before "we throw the baby out with the bath water."

County Manager Jones asked Commissioner Cogdell was he proposing giving CHS notice to terminate the agreement for deficit funding for the psychiatric hospital.

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General Manager Lancaster said that wasn't possible but to let staff discuss it.

County Attorney Bethune said the County couldn't terminate parts of the contract. He said it's all or nothing with respect to termination. County Attorney Bethune said that didn't mean, however, that the County couldn't enter into a new agreement, to do something different with respect to public health.

Commissioner Pendergraph asked would the Board be having this meeting and these discussions if the information requested had been provided. *County Manager Jones said no.*

Commissioner Pendergraph said he was not sure mediation would help, unless it uncovered the bottom line reason for the refusal to provide the information requested.

Commissioner Cooksey said what the County had was an agreement entered into in 1995, that may have worked in 1995 for the needs of the County at that time, but there's little relationship as to what the needs are today. Commissioner Cooksey said both CHS and the County have now recognized that agreement needs to go away. Commissioner Cooksey said that doesn't mean when you look at the services that are covered by that agreement today, that there's not some continuing relationship between CHS and the County going forward. Commissioner Cooksey said that should be the purpose of the mediation. He said the County would go ahead and move down the path of terminating this agreement, which both parties seem to be set on a course to do, but that time be spent over the next two – three months talking about how that relationship might look going forward and whether or not it includes servicing the Health Department or if it includes some relationship with respect to Mental Health.

Commissioner Cooksey said he was not adverse to the mediation idea, nor was he adverse to making it clear to CHS that if an understanding can't be reached regarding what a "new deal" would look like within say 90 days, then he would be okay with moving forward with the County Manager's recommendation.

Commissioner Leake said her concern was the amount of money that has been provided.

Commissioner Leake said the County's relationship with CHS was at a point similar to that of a married couple that decided to divorce and was now faced with the decision of who gets what.

Commissioner Leake said she felt the relationship between the County and CHS was solvable using her marriage analogy, meaning the two should go their separate ways.

Commissioner Leake said she wanted to make sure the residents of Mecklenburg County were served as they should be. She also wants to make sure this issue is communicated in a way that the average residents understand it.

Commissioner Leake said the Board should follow the advice of staff.

Commissioner Leake said she was concerned about having double standards. She said all agencies should be treated the same.

Chairman Roberts said this was a big decision and a big change. Chairman Roberts said the County wants to be sure that access and care and health of the community do not suffer. She thanked everyone for their dialogue.

County Manager Jones said that concluded his report but asked the Board to consider the following question: Are the taxpayers getting the "biggest bang for its bucks" with the expenditure of the funds that are currently being applied to CHS?

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The Board allowed Mark Billings, President/CEO of Presbyterian Novant to make remarks.

Mr. Billings said he understood the Board had a “tough” decision to make and that he would not weigh in on that, but that Presbyterian/Novant would support whatever the Board chose to do.

Mr. Billings said Behavioral Health was not only a delicate issue but a “thorny” issue. He said subject matter experts needed to be at the table. He urged the Board to consider the Blue Ribbon committee that County Manager Jones suggested. He said Presbyterian Novant would participate on the committee and if the committee comes to fruition that the same counterparts from the other system should also be at the table. He said meaningful dialogue needed to occur to take care of those folks in the community that often don’t have a voice.

Mr. Billings asked the Board to take a look at behavioral health in the community as a whole. He said their leadership team was willing to participate to help make wise decisions going forward.

Commissioner Cogdell acknowledged that there were other healthcare providers in the community that would also need to be a part of that committee.

This concluded the discussion.

ADJOURNMENT

There being no further business to come before the Board, the meeting was declared adjourned at 5:20 p.m.

Janice S. Paige, Clerk

Jennifer Roberts, Chairman