

CUMBERLAND COUNTY FINANCE COMMITTEE
COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564
AUGUST 7, 2014 - 9:30 AM
MINUTES

MEMBERS PRESENT: Commissioner Marshall Faircloth, Chairman
Commissioner Kenneth Edge
Commissioner Billy King

OTHER COMMISSIONERS

PRESENT: Commissioner Jeannette Council

OTHERS:

Amy Cannon, County Manager
James Lawson, Deputy County Manager
Melissa Cardinali, Assistant County Manager
Phyllis Jones, Assistant County Attorney
Vicki Evans, Accounting Manager
Sally Shutt, Government Affairs Officer
Jeffrey Brown, Engineering and Infrastructure Director
Candice White, Clerk to the Board
Press

Commissioner Faircloth called the meeting to order.

1. APPROVAL OF MINUTES – MAY 8, 2014 SPECIAL MEETING

MOTION: Commissioner Edge moved to approve the minutes.

SECOND: Commissioner King

VOTE: UNANIMOUS (3-0)

2. PRESENTATION ON WOUNDED WARRIOR CENTER, A LIVING MONUMENT
BY RICK HOUP, YMCA CEO/PRESIDENT

Rick Houpp, YMCA CEO/President, gave a three minute video presentation on a proposed Wounded Warrior Center in Cumberland County. Mr. Houpp stated there are 300 wounded warriors in the county which is the second largest population behind Houston, Texas. Mr. Houpp stated there are not enough aquatic centers in Cumberland County and there is no year-round aquatic center, and there is no national museum that recognizes the sacrifices of wounded warriors and tells their stories. Mr. Houpp shared his vision for a \$20 million Wounded Warrior Center and stated he is asking the county, the city, the school system and other organizations to pledge \$3 million over the next two years towards construction. Mr. Houpp stated he will also seek national support for the project; admission will be charged for the museum and membership sales will pay for the facility.

Mr. Houp stated he would like for representatives from the county to attend a three to four hour session in September to find a way to make the center happen. Mr. Houp responded to questions.

Commissioner Council stated while this is a worthwhile project, the county strains to budget the school system in order to keep teachers in the classroom and Mr. Houp's request totals \$6 million from the county and school system combined.

Commissioner Edge outlined some of the pressing needs before the county and noted the recent reduction in the county's sales tax revenue. Commissioner Edge also referenced county government's responsibilities as outlined in the general statutes and stated although he supports the concept of the center and it is a worthwhile project, county government cannot support everything that comes along.

Commissioner Faircloth stated the project has the moral support of the Board of Commissioners but the purse strings are not open at this point because of the county's ongoing needs and obligations. Commissioner Faircloth stated although he would not designate any staff to attend, a commissioner or two may attend the session in September. Commissioner Faircloth stated this is a worthwhile project and encouraged Mr. Houp to continue his efforts.

3. APPROVAL OF THE KELLY HILLS WHOLESALE SEWER AND OPERATION AND MAINTENANCE AGREEMENT

BACKGROUND:

The Public Utilities Division is in the process of taking over the billing for the Kelly Hills/Slocomb Road Water and Sewer District from PWC. The first step in moving forward is to execute a new interlocal agreement between PWC and Kelly Hills for the sewer treatment and operation and maintenance of the system. The execution of the new agreement will replace the existing agreement. Cumberland County currently has \$800,975 in available Facility Investment Fee (FIF) credits with \$633,745 of those credits expiring in October 2015. As part of this agreement, the County will purchase additional capacity with a portion of the FIF credits. An additional 67,570 gallons will be purchased at a price of \$2.98/gpd for a total price of \$201,358.60. This will bring the total purchased capacity of the system to 100,000 gpd. The entire system has a capacity of 150,000 gpd.

RECOMMENDATION/PROPOSED ACTION:

The Engineering and Infrastructure Director and County Management recommend that the Finance Committee recommend to the Kelly Hills/Slocomb Road Governing Board to:

1. Approve the wholesale sewer and operation and maintenance agreement between PWC and Kelly Hills following review and approval of the County Attorney.
2. Approve the use of available PWC FIF credits to purchase additional capacity.

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND
SANITARY SEWER WHOLESALE AGREEMENT

THIS AGREEMENT made and entered into this ____ day of _____ 2014 by and between the City of Fayetteville acting by and through its Public Works Commission of the City of Fayetteville (hereinafter referred to as “Commission” or “PWC”) and the County of Cumberland, a North Carolina body politic acting by and through its Kelly Hills/Slocomb Road Water & Sewer District, (hereinafter referred to as “Kelly Hills”).

WITNESSETH

THAT, WHEREAS, Kelly Hills owns and operates a wastewater collection system, as described in Exhibit B, that currently serves approximately 115 customers in the Kelly Hills/Slocomb Road area; and,

WHEREAS, Commission owns and operates wastewater treatment facilities (the “Municipal Wastewater System”) and provides wholesale wastewater treatment services; and,

WHEREAS, Kelly Hills wishes to contract with Commission for PWC to furnish wholesale wastewater treatment service to Kelly Hills for the treatment of Kelly Hills wastewater; and ,

WHEREAS, Commission agrees to furnish wastewater treatment service pursuant to the terms of this agreement; and,

WHEREAS, Kelly Hills wishes to contract with Commission for PWC to provide operation and maintenance services to Kelly Hills for the Kelly Hills Sanitary Sewer system; and,

WHEREAS, Commission agrees to furnish operation and maintenance services to Kelly Hills for the Kelly Hills Sanitary Sewer system pursuant to the terms of this agreement; and,

WHEREAS, both parties recognize the Commission must implement and enforce a pretreatment program to control wastewater discharges from Significant Industrial Users(“SIUs”) under 40 CFR Part 403 or other dischargers who require issuance of SIU or local permits.

NOW THEREFORE, Commission and Kelly Hills agree to the following terms and conditions:

1. Discharge Points:

As of the Effective Date, wastewater from Kelly Hills existing sanitary sewer collection system will be discharged into the Commission’s Municipal Wastewater System at the existing entry point listed in this Section 1 and thence treated at Commission’s plants as deemed appropriate. Existing entry point is PWC Lift station at 355 Bethune Drive. Kelly Hills shall not discharge into Commission’s Municipal Wastewater System at any other entry point without prior written approval from the Commission. Exhibit A shows the approved discharge points.

2. Flow Measurement:

Within one hundred and twenty (120) business days from the Effective Date of this agreement, Commission shall install at Kelly Hills’ expense a flow measurement device at the Kelly Hills approach main where Kelly Hills discharges wastewater into the Commission’s Municipal Wastewater System. Commission at its expense, shall be responsible for maintenance and calibration of the flow measurement device and calibration shall be done annually and shall operate within the accuracy tolerances as specified by the manufacturer. Commission shall provide Kelly Hills a copy of the calibration records of the flow measurement device.

3. Basic Operations and Maintenance

A. The cost of basic operation and maintenance of the sanitary sewer collection system is built into the sanitary sewer rate being charged to Kelly Hills. Basic operation and maintenance includes:

1. Rights-of-way and/or easement maintenance to allow for accessibility to the sanitary sewer collection system.
2. Cleaning of at least 10% of the sanitary sewer collection system each year.
3. A general observation of the entire sanitary sewer collection system throughout the course of every year.
4. Semiannual inspections of all high priority lines (i.e. aerial, sub-waterway crossing, line contacting surface waters, siphon, line positioned parallel to stream banks subject to eroding, or line designated as high priority in a permit if applicable).
5. Point repair to a damaged or broken sanitary sewer main pipe, not to include replacement of multiple pipe joints.
6. Point repair to a damaged or broken sanitary sewer lateral or cleanout, not to include outright renewal of entire lateral.
7. Cleaning and rodding of clogged sanitary sewer mains and laterals.
8. Repair of manholes to include resetting of manhole ring and cover, not to include adjustments to or replacement of manhole or ring and cover; not to include repairs warranted to address I&I or corrosion issues.

B. Other extraordinary work required or requested by Kelly Hills will be NU billed at the appropriate rate to include applicable overtime and overhead for labor, equipment and materials (to include an amount for all direct and indirect charges) plus 10%. Examples of extraordinary work are: SSO remediation and post cleaning and inspection, work consider as a capital improvement under Financial Accounting Standards Board (FASB) standards, replacement of multiple joints of sanitary sewer pipe, renewal of a sanitary sewer lateral, installation of a new sanitary sewer lateral, elder valve installation, smokedye testing and CCTV inspection. Kelly Hills shall have the right to install themselves or to hire a contractor(s) to perform this work to PWC standards.

C. The Commission shall at its discretion exercise the right to decline or subcontract any work required or requested by Kelly Hills that would conflict with the Commission's responsibilities and requirements for the operation and maintenance of the Commissions' sanitary sewer collection system.

D. Commission will provide other services, upon request, but which will be billed separately and not included in the Wholesale Sewer Rate. A partial list of the other services that may be available to Kelly Hills include the following:

1. Promote participation agreements with other benefitted parties;
2. Participation and administration of utility extension contracts;
3. Right-of-way acquisition for land and easement requirements to be secured in the name of Kelly Hills within the limits permitted by law but not to include actions in eminent domain;
4. Inspection services during construction;
5. Miscellaneous services such as GIS mapping as requested.

E. Other services requested by Kelly Hills will be NU billed at the appropriate rate to include applicable overtime and overhead for labor, equipment and materials (to include an amount for all direct and indirect charges) plus 10%.

4. Upsizing Mains
Commission will be responsible for the cost associated with upsizing mains within the delineated Kelly Hills service as may be deemed necessary in order to meet Commission's existing and future sanitary sewer needs which would not be otherwise required for the sanitary sewer collection system being installed by Kelly Hills pursuant to this Agreement.
5. Ownership of Sewer Lines
 - A. All sanitary sewer lines installed within the boundaries of the Kelly Hills Sanitary Sewer District shall be owned and operated by Kelly Hills subject to Commission's right to upsize such mains at its expense and to transmit sanitary sewer through such mains to areas beyond the Kelly Hills area.
 - B. Commission shall own and operate the lift station located at 355 Bethune Drive, Fayetteville, NC and the associated force main.
6. Rights-of-way and encroachments
Kelly Hills will acquire all rights-of-way and/or encroachments as may be needed for construction and maintenance of the sanitary sewer collection system as referenced herein.
7. Extension of Mains Outside Kelly Hills Service Area
Commission reserves the right to extend or continue sanitary sewer mains from such mains as initially constructed by Kelly Hills to points outside of the delineated Kelly Hills service area. Future connections or main extensions that occur outside of the delineated Kelly Hills area are not subject to this Agreement and shall be the property of Commission unless the Kelly Hills boundary is expanded by law to serve development of contiguous properties. If such extensions occur, then the Commission shall install a flow measurement device at its expense to measure all flow being generated by customers outside of the Kelly Hills Service Area. A map of showing the boundaries of the Kelly Hills service is show as Exhibit B.
8. Extension of Mains Within Kelly Hills Service Area The further extension of or connection to mains within the delineated Kelly Hills service area will be pursuant to applicable extension and connection policies and procedures of Kelly Hills in effect at the time a request for service is made.
9. Compliance with Commission Policies and Procedures
Kelly Hills may by resolution adopt a policy whereby future customers and/or extenders of sanitary sewer infrastructure in the Kelly Hills service area will be subject to the then current applicable Commission Policies and Procedures to simplify the application process for customers with the understanding that such customers remain responsible to Kelly Hills for compliance with such policies and procedures.
10. Notification of Excessive Inflow/Infiltration
Upon notification by Commission that volumes of Kelly Hills wastewater entering Commission's lines, based on flow measuring data, exceed one hundred twenty-five percent (125%) of the average volume of sewer measured at the Discharge Point during any consecutive three-month billing period, Kelly Hills shall initiate an infiltration/inflow study to be conducted or supervised by a professional consulting engineer. Such study will provide Kelly Hills with recommendations designed to reduce infiltration/inflow to acceptable levels as delineated by the United States Environmental Protection Agency. Said study shall be made during the fiscal year immediately following notification. Corrective measures shall be taken by Kelly Hills upon receipt of and based on said infiltration/inflow study. Kelly Hills shall be responsible for all costs associated with any

required infiltration/inflow study and corrective measures. Results of any infiltration/inflow study and proposed corrective measures shall be sent to Commission for review and approval.

11. New Laterals

- A. At Kelly Hills request, Commission will install new laterals in the Kelly Hills Sanitary Sewer District at Kelly Hills expense. Commission will NU bill Kelly Hills for such laterals at the appropriate rate to include applicable overtime and overhead for labor, equipment and materials (to include an amount for all direct and indirect charges) plus 10%.
- B. Kelly Hills, at its sole discretion, may install or contract for the installation of new laterals in the Kelly Hills Sanitary Sewer District.
- C. All new laterals will be designed and built to the PWC standards in effect at the time of the design and construction.

12. Monthly Billing:

- A. As of the Effective Date, the flow measuring device at the Kelly Hills connective main will be read, as nearly as practical, at regular monthly intervals. The period of time between device readings shall not be less than twenty-seven (27) days and not more than thirty-three (33) days. If Commission is unable to read the flow measuring device, for any reason, the wastewater flow shall be estimated by Commission on the basis of Kelly Hills wastewater flow for the preceding three billing periods for which readings were obtained. Bills rendered on the basis of such estimates shall be as valid as if made from actual device readings and appropriate adjustment of Kelly Hills bill shall be made at first actual reading of the flow measuring device subsequent to such estimate.
- B. The term “month” or “monthly” refers to the interval(s) transpiring between the previous meter reading date and the current meter reading date, and bills shall be rendered accordingly.
- C. The Commission will submit bills to Kelly Hills on a monthly basis for the prior month’s sewer treatment service.
- D. If at the time of this Agreement’s Effective Date, the flow measurement device at Kelly Hills approach main is not installed, the parties agree that billing shall continue under the existing arrangement, as specified in the Kelly Hills/Slocomb Road Water & Sewer District Sanitary Sewer Service Agreement as amended October 24, 2005 until such time that the flow measurement device is installed and calibrated.
- E. The Commission will, annually, or such time as shall be determined by Commission, perform a rate analysis to determine the rates which are applicable to serving Commission’s various classes of water and sanitary sewer service. Among those classes of service will be wholesale sanitary sewer service classes, a class which includes Kelly Hills.
- F. Commission will use audited balance sheets, income statements, comparable wholesale market rate data, and return on investment financial information as the basis for determining the rates applicable to this Agreement. Commission may at its option, adjust audited financial data for changes to such financial data known or reasonably expected to occur during the period in which the billing rate will be in effect.
- G. Commission will provide at least 30 days’ notice to Kelly Hills of any rate changes.
- H. The initial Wholesale Sewer Rate to be charged to Kelly Hills, including the cost of O&M, is \$ 4.1267 per 1,000 gallons, or \$.0041267 per gallon, the rate effective

January 1, 2014. This cost includes the cost of basic operation and maintenance of the sanitary sewer collection system as described in paragraph 3.

13. Capacity Charges

A. Commission shall receive and treat up to 100,000 gallons per day of Kelly Hills wastewater, representing the projected average daily usage generated from sources within the Kelly Hills Sanitary Sewer District. Kelly Hills has purchased 32,430 gallons per day sanitary sewer treatment capacity using \$ 92,640 of FIF credits. Upon execution of this agreement Kelly Hills will purchase an additional 67,570 gallons per day of sanitary sewer treatment capacity using \$ 201,358.60 of their existing FIF credits that expire in October 2015. Kelly Hills has the option, in the future, to purchase any or all of the remaining 50,000 gallons per day force main capacity at the then current FIF charge. Such purchases will be made in increments of at least 5% of the then current contract capacity.

B. Kelly Hills shall, advise Commission of any anticipated growth in number of connections to its sanitary sewer system, population served and anticipated volume of wastewater as Kelly Hills becomes aware of such growth.. Commission does not anticipate any restriction on annual increase in flow from Kelly Hills, if within limits of the contract demand of 100,000 gallons per day. However, flow limits may be imposed if a regulatory agency having jurisdiction over Commission's treatment facilities requires restriction on flow increases on Commission's system.

C. Commission shall notify Kelly Hills if the measured average daily usage in gallons per day of wastewater reaches 80% of the contract demand.

D. If the measured average daily usage in gallons per day of wastewater from Kelly Hills exceeds 90% of the contract demand, Kelly Hills shall purchase additional contract demand at the current Commission capacity rate in increments of at least 5% of the existing contract demand.

14. Surcharges for Carbonaceous Biochemical Oxygen Demand (CBOD) and Suspended Solids (SS) and Total Kjeldhal Nitrogen (TKN):

A. A surcharge for CBOD, Suspended Solids or NH₃ will be applied to those customers of Kelly Hills who are issued SIU or local permits ("Industrial Users"). These surcharges will be determined in accordance with the Commission Rate Schedule "Sanitary Sewer Surcharges" currently indexed as 620.05. Such surcharge billing will be determined by testing samples of wastewater from each Industrial Users' discharge at Commission's laboratories pursuant to standard test requirements and procedures of the State and Federal governments. Commission shall bill surcharges directly to the Industrial Users. The additional costs to treat wastewater in excess of limits stated above are determined by the Commission and published annually. The Commission will, from time-to-time, review and revise the surcharge applicable to Industrial Users based on testing.

B. Kelly Hills shall terminate sewer service to any Industrial User upon notice from the Commission that said Industrial User has failed to pay surcharges pursuant to Sections 5 or 7 or any additional fees or penalties under the City of Fayetteville's Sewer Use Ordinance.

15. Sewer Use Ordinance Requirement:

A. The Sanitary Sewer Ordinance of the City of Fayetteville, as amended from time-to-time, shall be applicable to all Kelly Hills customers whose wastewater is discharged to Commission's Municipal Wastewater System.

B. Kelly Hills shall be responsible for regulation of all customers who discharge wastewater through Kelly Hills system to the Commission's Municipal Wastewater System. Kelly Hills shall be responsible for enforcement of the requirements of the City of Fayetteville's Sanitary Sewer Ordinance.

16. Sewer Use Ordinance, and Pretreatment Requirements and Costs:

A. The Sanitary Sewer Use Ordinance of the City of Fayetteville and subsequent revisions of such Ordinance to include pretreatment requirements and cost, both incorporated herein by reference, shall be applicable to the effluent of Kelly Hills' sanitary sewer being discharged into the Commission's sanitary sewer system.

B. Kelly Hills hereby designates Commission as the agent of Kelly Hills for the purposes of implementation and enforcement of the pretreatment requirements of Kelly Hills for industrial users located in Kelly Hills' jurisdiction. Commission hereby accepts the designation of agent of Kelly Hills' jurisdiction for purposes of implementation and enforcement of the pretreatment requirements. If Commission determines the pretreatment requirements are not enforceable by Commission, then Kelly Hills shall provide timely enforcement. Kelly Hills shall continue to enforce all other provisions of the City's Sanitary Sewer Use Ordinance.

C. Commission, on behalf of and as an agent for Kelly Hills', agrees to perform technical and administrative duties necessary to implement and enforce the pretreatment requirements, including but not limited to the following:

1. Updating industrial waste survey no less than once every five (5) years;
2. Providing technical services such as sampling and analysis;
3. Permitting of Significant Industrial Users (SIU's);
4. Conducting inspection and compliance monitoring at permitted SIU's and certain commercial users; and
5. Performing enforcement activities.

In addition, Kelly Hills authorizes the Commission, as its agent, to take emergency action to stop or prevent any discharge which presents or may present an imminent danger to the health or welfare of humans, reasonably appears to threaten the environment, threatens to interfere with the operation of Commission's sanitary sewer treatment system (including the collection system and its workers' safety), or which could pass through the treatment plant and threaten the integrity of the publicly owned treatment works receiving stream.

D. Kelly Hills, as with other Commission customers, shall be responsible for additional cost associated with treatment of sanitary sewer in excess of published limits as determined by Commission. Such pretreatment surcharge billing will be determined by testing of samples of sanitary sewer from the Kelly Hills sanitary sewer collection system at Commission's laboratories pursuant to standard test requirements and procedures of the State and Federal governments. The pretreatment surcharge procedure as it applies to commercial industrial customers is described in Commission's Rates and Policies Manual and is incorporated herein by reference.

E. Kelly Hills shall pay Commission for actual costs incurred by Commission, including all reasonably allocated overhead costs, implementing and enforcing pretreatment requirements on behalf of Kelly Hills'. Commission shall bill Kelly Hills monthly for pretreatment costs incurred by Commission in implementing and enforcing Kelly Hills' pretreatment requirements, which shall be payable within 30 days of date of invoice.

17. Corrosion Control:
Kelly Hills shall be responsible for ensuring compliance with hydrogen sulfide discharge limits at the point(s) of discharge to the Commission's Municipal Wastewater System. The discharge of dissolved sulfide by Kelly Hills to Commission's Municipal Wastewater System at the discharge point(s) identified in Section 1 of this Agreement, are limited to the following: a daily average of 5mg/l in solution and/or 10 ppm in atmosphere and a maximum of 10 mg/l in solution and/or 30 ppm in atmosphere per day. PWC, at its own expense, shall perform all testing and as needed shall coordinate with Kelly Hills. Kelly Hills, at its own expense, shall be responsible for the addition of any chemicals or additional treatment necessary to comply with the hydrogen sulfide limit. Any addition of chemicals to control hydrogen sulfide shall be coordinated with Commission prior to introduction into the system.
18. Indemnity and Responsibilities:
Kelly Hills assumes responsibility for and shall indemnify (or defend at Commission's sole option) Commission, its successors and assigns, and hold it harmless against all injuries, liabilities, claims, damages, losses, costs and expenses, including reasonable attorney's fees and costs, personal injury or property damage, arising out of or related to 1) the construction, maintenance and operation of Kelly Hills sanitary sewer system, 2) Kelly Hill's discharge into the Commission's Municipal Wastewater System, 3) this Agreement, or 4) fines or penalties by any Federal, State or local agency or body.. Kelly Hills will not indemnify PWC for intentional or negligent acts solely attributable to PWC, its employees, agents, or contractors.
19. Suspension or Termination of Sanitary Wastewater Treatment Service:
Commission, in addition to all other legal remedies, may either terminate this Agreement or suspend sanitary sewer treatment service to Kelly Hills for:
- a) Any material default or breach of this Agreement by Kelly Hills; Fraudulent or unauthorized use of the sanitary sewer treatment service or discharge of sanitary sewer in such manner as to circumvent Commission's meter(s) serving Kelly Hills; or,
 - b) Failure to pay monthly sanitary sewer bills when due and payable.
 - c) No such termination or suspension, however, will be made by Commission without thirty (30) days written notice delivered to Kelly Hills personally or by mail, within which time Kelly Hills may cure any such alleged default or breach or commence in good faith to cure any such default or breach which cannot reasonably be cured within thirty (30) days, except that only seven (7) days' notice need be given under subsection (b) above.
 - d) Commission's suspension of sanitary sewer service or termination of this Agreement upon any authorized grounds shall not relieve Kelly Hills of:
 - 1) Liability for the payment of sanitary sewer treatment service to the date of suspension or termination of this Agreement; nor
 - 2) Liability for any actual damages sustained by Commission.
20. Payment:
Monthly bills are payable within thirty (30) days from date thereof at P.O. Box 1089, Fayetteville, North Carolina, 28302, or its successors. A late payment charge in accordance with PWC's Schedule of Deposits, Fees, and Charges shall be applicable to all bills rendered pursuant to this Agreement except when notified within fifteen (15)

days by Kelly Hills in writing of an invoice dispute, but Kelly Hills shall pay the undisputed amount pursuant to this contract.

21. Term of Agreement:

The term of this Agreement is for twenty (20) years from _____, 2014 until _____, 2034 (the "Initial Term"). This Agreement shall automatically renew at the end of the Initial Term for a period of one (1) year, and shall automatically renew each year thereafter for a period of one year, unless terminated pursuant to the terms of Paragraph 10, or by either party by giving not less than one (1) year written notice to the other party, or upon mutual consent of both parties. Either party may terminate this Agreement during the Initial Term by giving the other party one (1) year written notice.

22. Prior Agreements: This Sanitary Sewer Wholesale Agreement shall replace the Sanitary Sewer Service Agreement by and between the City of Fayetteville acting by and through its Public Works Commission of the City of Fayetteville and the Kelly Hills /Slocomb Road Sanitary Sewer District dated April 19, 2004 and amended October 24, 2005.

23. Continuity of Service:

Commission does not guarantee continuous utility service, but shall use reasonable diligence in providing uninterrupted services. Having used such reasonable diligence, Commission shall not be liable to Kelly Hills or its customers for failure to provide continuous services. The performance of Commission's obligations under this Agreement shall be excused during such times and to the extent such performance is prevented by reason of any event beyond the control of Commission, including without limitation, flood, earthquake, storm, lightning, fire, explosion, war, riot, civil disturbances, terrorist act, strikes, sabotage, or act of God.

24. Dispute Resolution:

Commission and Kelly Hills will attempt in good faith to resolve any dispute or claim arising out of or in relation to this Agreement through direct negotiations between Commission and Kelly Hills' staff. If the dispute is not settled through such negotiations, then Commission and Kelly Hills agree to attend voluntary mediation prior to initiating formal legal proceedings. Said voluntary mediation shall be initiated by either party giving notice of the same, and shall be concluded within 30 days of such notice. Said voluntary mediation shall be conducted pursuant to the North Carolina Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions in effect at the time said notice is given. The requirements of this Section 25 shall not apply to emergency situations where the dispute involves potential harm to the Commission's Municipal Wastewater System.

25. Amendment Proceedings:

This Agreement may be amended, changed, modified, altered, or assigned only by written consent of Commission and Kelly Hills.

26. Notices:

All notices hereunder, other than monthly invoices and payment of the same, shall be sent to the following addresses using regular mail unless otherwise specified in writing:

Commission: General Manager
 Public Works Commission
 P.O. Box 1089
 Fayetteville, NC 28302

Kelly Hills: Chairman, Board of Governors

Kelly Hills/Slocomb Road Water and Sewer District
P. O. Box 1829
Fayetteville, NC 28302-1829

27. Binding Effect:
This Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, successors and assigns.
28. Entire Agreement:
This Agreement contains the entire Agreement of the parties and there are no representations, inducements, or other provisions other than those expressed in writing.
29. Kelly Hills acknowledges that, in carrying out the terms of this agreement, PWC will disclose certain confidential customer information to Kelly Hills (the “Confidential Information”). Kelly Hills agrees not to disclose the Confidential Information to third parties, except as may be reasonably necessary to carry out the terms of this Agreement. Kelly Hills will advise PWC of any such disclosure prior to disclosure and obtain PWC’s consent. In the event Kelly Hills inadvertently discloses Confidential Information, Kelly Hills will immediately notify PWC of such inadvertent disclosure and will take all appropriate actions to prevent further dissemination or disclosure of the Confidential Information.
29. Governing Law:
This Agreement shall be governed by the laws of the State of North Carolina.
30. Severability:
It is hereby declared to be the intention of Commission and Kelly Hills that the paragraphs, sentences, clauses, and phrases of this Agreement are severable. If one or more paragraphs, sections, sentences, clauses, or phrases shall be declared void, invalid, or otherwise unenforceable for any reason by valid and final judgment or decree of any court of competent jurisdiction, such judgment or decree shall not affect the remaining provisions of this Agreement and the same shall continue to be fully effective and enforceable on the basis that said remaining provisions would have been agreed to by Commission and Kelly Hills without the incorporation of such void, invalid, or otherwise unenforceable paragraph, section, sentence, clause, or phrase.
31. Effective Date:
The Effective Date, as that term is used in this Agreement, shall be the date that the Agreement is fully executed by both parties.

IN WITNESS WHEREOF, the parties hereto, through their duly authorized officers, have executed this contract as to the date and year first above written.

Exhibit A – Kelly Hills Discharge Points

The approved discharge point(s) for Kelly Hills are:

1. The flow measurement device at the Kelly Hills force main.

Exhibit B – Wastewater Collection System

Incorporated by reference herein.

Jeffrey Brown, Engineering and Infrastructure Director, reviewed the background information as recorded above and stated the county has interest in taking over the billing for the sewer system in Kelly Hills. Mr. Brown explained the county is losing money under the current agreement because it cannot recover costs for which it is billed by PWC when homeowners do not pay. Mr. Brown also explained the county has acquired the necessary software to bill customers directly. Mr. Brown stated the request of the Finance Committee is to approve the wholesale interlocal agreement and to allow the county to move forward using additional FIF credits to purchase additional capacity in the system. Mr. Brown responded to questions and discussion followed about the county's involvement in the water/sewer service business. Mr. Brown stated the county has learned not to enter into contracts in which the county will be responsible for paying customers' unpaid sewer bills. Mr. Brown stated if customers do not pay their sewer bills, the county can shut off the valve so there is no sewer service and notify the Health Department that there is no sewer service. Mr. Brown stated the customer will then be evicted.

MOTION: Commissioner Edge moved to approve the wholesale sewer and operation and maintenance agreement between PWC and Kelly Hills and to approve the use of available PWC FIF credits to purchase additional capacity.
SECOND: Commissioner King
VOTE: UNANIMOUS (3-0)

4. UPDATE ON EMPLOYEE WELLNESS CLINIC

BACKGROUND:

At the May 8, 2014 Finance Committee meeting, Mark Browder of Mark III Employee Benefits presented an update on the employee clinic. At that time, Mr. Browder was instructed by the Committee to seek requests for proposals for the operation of the employee clinic. We anticipated the results would be available for the August Finance Committee meeting.

In June the vendors were asked to present their proposals. At that time it was decided that additional clarification was needed in order to make the most informed and best decision for the County.

Due to scheduling difficulties, the management team was unable to meet with Mark III until August. Therefore, we anticipate Mark Browder attending the September 4 Finance Committee meeting with a recommendation regarding the clinic.

RECOMMENDATION:

No action needed. Item is for information only.

Melissa Cardinali, Assistant County Manager, reviewed the background information as recorded above. Ms. Cardinali stated it was discovered that the RFP did not get to the appropriate party at Cape Fear Valley Health System and staff wanted to ensure that Cape Fear Valley had an opportunity to respond.

5. UPDATE ON LEGISLATIVE ACTION REGARDING SALES TAXING AUTHORITY FOR COUNTIES

ADDITIONAL SALES TAX AUTHORITY

- Article 46 additional quarter-cent tax
 - Transit
 - Public education
 - General purposes
- Caps overall county sales tax at 2.5 cents
 - Cumberland County currently at 2.25 cents
- Does not apply to food sales
- Not shared with municipalities within county

Tax Levy	Tax Amount	Restrictions on Use
County Sales & Use Tax for Public Education	New levy Up to .5%	Public school capital or indebtedness; teacher or teachers' assistants' salaries or teacher supplements; community college financial support
Local Government Sales and Use Taxes for Public Transportation	Restructured Levy Up to .5%	Public transportation systems only—bill does not change current use restrictions
One-Quarter Cent or One-Half Cent	Restructured levy Up to .5% (was at .25%)	Any public purpose

*Chart information per NCACC legislative bulletin August 1, 2014

Ms. Cardinali reviewed the background information as recorded above. Ms. Cardinali stated this information is based on what is available at this time and clarification may be available in the next few weeks from the NCACC and School of Government through webinars aimed at deciphering legislation that passed during the session. Ms. Cardinali stated should there be a desire, Cumberland County can only add a quarter cent tax.

Commissioner Faircloth stated he asked to have this items added to the agenda for information and discussion should the Board decide to move forward with a referendum for a sales tax increase.

Commissioner Edge stated his understanding was that the General Assembly passed legislation such that special elections can be held only at the same time of a State, county, or municipal

general election and not at times in between. Commissioner Edge asked that this be confirmed because citizens probably will not have enough time to understand putting a quarter cent on by the November 2014 election. Commissioner Edge asked whether the quarter cent sales tax could supplant educational funding. Commissioner Faircloth stated it could be used for general purposes and then the county could designate how it would be used. Commissioner Edge invited everyone to check out the fund balance of school systems in North Carolina and stated this is something that is not often brought out. Commissioner Faircloth asked that consideration be given to shooting for the next municipal election and that in the meantime, determine what needs to be done to move it forward and how the revenue will be used.

6. MONTHLY FINANCIAL REPORT

BACKGROUND:

The financial report is included as of June 30, 2014. Highlights include:

- Revenues
 - Ad valorem taxes: Collections are just above budget for the year. Another strong year of consistent collections by our tax department.
 - Sales taxes: Collections remain behind fiscal year 2012-13 to date. However, the July 2014 distribution was consistent with the July 2013 distribution.
- Expenditures
 - Expenditures for all departments remain in line with previous years and show no unusual patterns.
- Crown Coliseum
 - Financial statements as presented to the CCCC Board are included.

RECOMMENDATION:

No action needed – for information purposes only.

Ms. Cardinali reviewed the background information as recorded above and stated the July sales tax distribution was in line with the July 2013 distribution; however, this did not heal the \$2.4 million hurt. Ms. Cardinali stated there are three more months to collect taxes that will be applied to FY 2014. Ms. Cardinali stated there is no significant change in sales tax. Consensus of the Finance Committee was that the financial information for the Crown Complex be reported in a more easily understood format.

7. OTHER MATTERS OF BUSINESS

Commissioner Edge shared the request he presented at the Facilities Committee meeting for special educational sessions about Managed Care Organizations (MCOs) for the Board either before or after regularly scheduled Board of Commissioner meetings.

There being no further business, the meeting adjourned at 10:40 a.m.