

CUMBERLAND COUNTY POLICY COMMITTEE  
COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564  
NOVEMBER 6, 2014 – 10:00 A.M.  
MINUTES

MEMBERS PRESENT:       Commissioner Jimmy Keefe, Chairman  
                                  Commissioner Charles Evans  
                                  Commissioner Ed Melvin

OTHER COMMISSIONERS  
PRESENT:

Chairman Jeannette Council  
Commissioner Marshall Faircloth  
Commissioner Kenneth Edge  
Commissioner Billy King

OTHERS PRESENT:

Amy Cannon, County Manager  
James Lawson, Deputy County Manager  
Rick Moorefield, County Attorney  
Sally Shutt, Governmental Affairs Officer  
Melissa Cardinali, Assistant County Manager for Finance/  
                                  Administrative Services  
Buck Wilson, Public Health Director  
Russ Rogerson, Fayetteville Regional Chamber  
George Turner, Civic Center Commission  
Rochelle Small-Toney, City of Fayetteville  
Naynesh Mehta, MBM Hospitality  
Manish Mehta, MBM Hospitality  
Richard Wiggins, Attorney for MBM Hospitality  
Candice White, Clerk to the Board  
Kellie Beam, Deputy Clerk to the Board  
Press

Commissioner Keefe called the meeting to order.

1.       APPROVAL OF MINUTES – SEPTEMBER 4, 2014 REGULAR MEETING

MOTION:       Commissioner Melvin moved to approve the minutes.  
SECOND:       Commissioner Evans  
VOTE:         UNANIMOUS (3-0)

2.       CONSIDERATION OF APPROVAL OF A REQUEST TO MODIFY THE  
          CIVIC CENTER COMMISSION MEMBERSHIP

**BACKGROUND:**

In 1991, the North Carolina General Assembly enacted a law creating the Cumberland County Civic Center Commission. The legislation provided for a sixteen (16) member board: the County Manager serving in an ex-officio and nonvoting capacity and fifteen (15) citizens appointed by the Board of Commissioners. The Civic Center Commission has requested the Board of Commissioners not fill the six (6) seats on the Commission that are due to expire on January 1, 2015. The Civic Center Commission also requests that the Board of Commissioners requests the local delegation to the General Assembly submit a bill to reduce the number of citizens on the Civic Center Commission from fifteen (15) members to nine (9) members.

**RECOMMENDATION:**

The Policy Committee recommends the Board of Commissioners honor the request of the Civic Center Commission recorded above.

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George Turner, Civic Center Commission Chairman, stated the request made by the Civic Center Commission follows the recommendation of the benchmark study provided by Johnson Consulting in the spring of 2013. Mr. Turner stated the Civic Center Commission's request is to reduce the membership which is currently 15 (15) members to nine (9) members. Mr. Turner stated six (6) seats on the Civic Center Commission are due to expire on January 1, 2015 and are not eligible for reappointment. Mr. Turner further stated if those six (6) seats are not filled it would leave nine (9) members on the Civic Center Commission.

Mr. Turner stated the Civic Center Commission would also like to see more representation on the Civic Center Commission from the outlying municipalities such as Godwin, Falcon and Stedman.

**MOTION:** Commissioner Melvin moved to recommend to the full board to approve the request of the Civic Center Commission to request a local act to reduce the size of the Civic Center Commission to nine members and not fill the six (6) upcoming vacancies which expire on January 1, 2015.

**SECOND:** Commissioner Evans

**DISCUSSION:**

Commissioner Evans stated he would like see a way for the Civic Center Commission to become more inclusive of members of neighboring municipalities and possibly have specific categories for individuals residing in Godwin, Falcon and Stedman. Mr. Moorefield stated the Board of Commissioners has the authority to appoint all nine (9) members to the Civic Center Commission. Commissioner Keefe stated his commitment to Commissioner Evans is to look at addresses when

appointments come up to get a more geographical representation on the Civic Center Commission.

VOTE: UNANIMOUS (3-0)

3. RECONSIDERATION OF ECONOMIC DEVELOPMENT INCENTIVES AGREEMENT FOR MBM HOSPITALITY, LLC.

BACKGROUND:

After conducting a duly advertised public hearing, the Board of Commissioners approved an economic development incentive agreement for MBM Hospitality, LLC, on September 20, 2010. The project was the Embassy Suites Hotel constructed at 4760 Lake Valley Drive, Fayetteville, North Carolina. The agreement was drafted by the county attorney, signed by then Chairman Kenneth Edge and delivered to Bo Gregory at the Chamber of Commerce in March, 2011.

Naynesh Mehta, the managing member of MBM Hospitality, LLC, asked the county attorney in the summer of 2014 how MBM Hospitality, LLC, would receive the incentive payment for 2013, its first full year of operations. The county attorney explained that the agreement had never been returned so there was no basis for the county to pay the incentives. Mr. Mehta stated that he believed the agreement he signed with the City of Fayetteville covered both the city and county incentives.

The county attorney had further discussions with Richard Wiggins, the attorney for MBM Hospitality.

It is important to note that the proposed County Agreement also incorporates a provision that proportionally reduces the amount of the incentives paid for any year that the taxable value is reduced by the County Board of Equalization and Review, the State Property Tax Commission, or by the general county revaluation of all real property. The County's valuation of the hotel has been appealed to the State Property Tax Commission.

The Board of Commissioners approved the incentives as Level 2 under the joint incentives policy based on the information that was presented at that time. At Level 2, the incentives payments commence at a 60% grant-back of the property taxes actually paid. The company is still requesting the same level of incentives even though it does not qualify for incentives under the joint policy because it is not rated with at least fifty (50) points. The county attorney points out that even under the original levels of investment and jobs, the project only qualified for a Level I incentive under the policy.

MBM Hospitality did enter into an agreement with the City of Fayetteville that was based on the project creating seventy-six (76) full and part-time jobs that paid more than the county median, one hundred and one (101) full and part-time jobs for residents, and an increase in taxable investment of \$25 million. The City of Fayetteville Agreement was amended in July 2014, to reduce the taxable investment to \$22 million. The City of Fayetteville's incentive payments commenced at a 70% grant-back of taxes paid.

It is apparent that different information about the project was submitted to the City and County. The county attorney cannot determine how the City Agreement came in at a Level 3 for incentives or even how the agreement approved by the county came in at a Level 2 for incentives.

The county attorney has calculated the points attributable to the project by the joint policy using both the part-time and full-time jobs; assuming the jobs have health insurance, retirement benefits, profit sharing and paid vacation; and at least five (5) jobs were created for persons living within two (2) miles of the site. This calculation is shown below:

		<b>Orig. Points</b>	<b>Actual Points</b>
<b>Number of New Jobs Above the Median Wage</b>	<b>Points</b>		
1-9	1		
10-20	2		<b>2</b>
21-50	5		
51-75	7		
76-100	9	<b>9</b>	
101-150	12		
150-200	15		
200+	20		
<b>Total Possible Points</b>	<b>20</b>		
<b>Quality of New Jobs</b>	<b>Points</b>		
Partial Employer Paid Health Insurance	1	<b>1</b>	<b>1</b>
Entire Employer Paid Health Insurance	3		
Retirement Benefits	2	<b>2</b>	<b>2</b>
Profit Sharing	2	<b>2</b>	<b>2</b>
Employer Paid Vacation	2	<b>2</b>	<b>2</b>
Employee-Owned Company	3		
<b>Total Possible Points</b>	<b>10</b>		
<b>Number of Existing County Residents Hired</b>	<b>Points</b>		
1-9	1		
10-20	2		
21-50	3		
51-75	5		
76-100	7		<b>7</b>
101-200	9	<b>9</b>	
200+	10		
<b>Total Possible Points</b>	<b>10</b>		
<b>Project Location</b>	<b>Points</b>		
Adopted Revitalization Zone	25		
City or County Business/Industrial Park	10		

Military Business Activity Zone	10		
<b>Total Possible Points</b>	<b>25</b>		
<b>Level of Capital Investment</b>			
	<b>Points</b>		
Under \$500,000	1		
\$500,000-\$4,999,999	5		
\$5,000,000-\$14,999,999	10		
\$15,000,000-\$24,999,999	15		<b>15</b>
\$25,000,000 and Above	20	<b>20</b>	
<b>Total Possible Points</b>	<b>20</b>		
<b>Environmental Impact</b>			
	<b>Points</b>		
Reuse of Existing Building	4		
Location in LEED Certified Building	4		
Other sustainable features (recycling, water reuse, etc.)	2		
<b>Total Possible Points</b>	<b>10</b>		
<b>Industry Cluster/Business Type</b>			
	<b>Points</b>		
Defense Industry Cluster	6		
Company Headquarters	6		
Verified Supply-Chain/Sourcing Relationship with Cumberland County	4		
<b>Total Possible Points</b>	<b>10</b>		
<b>Public Benefit</b>			
Dedication in excess of statutory requirements	5		
Public infrastructure in excess of statutory requirements	5		
Creation of 5 or more jobs for residents within 2 miles	10	<b>10</b>	<b>10</b>
<b>Total Possible Points</b>	<b>10</b>		
<b>Total Points Earned</b>		<b>55</b>	<b>41</b>

Based on the county attorney's calculation and using the part-time jobs, the project was originally proposed earned fifty-five (55) points and as actually completed, it earns forty-one (41) points.

**RECOMMENDATION/ACTION REQUESTED:**

Consider whether to approve the new proposed agreement based on the project as completed with the provision to reduce the incentives proportionally with any further reduction in the taxable value.

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Rick Moorefield, County Attorney, reviewed the background information and recommendation as recorded above and responded to questions.

Mr. Moorefield stated his recommendation is to grant MBM Hospitality, LLC, incentives at a Level 1 under the policy because a commitment had been made to offer incentives and the details of the project had simply not been represented accurately to the Board of Commissioners, as demonstrated by the differences between the City's agreement and the County's original proposal.

Richard Wiggins, MBM Hospitality Attorney, stated they are certainly willing to accept the recommendation of the county attorney at this time and think that is a fair and equitable way to resolve this issue.

MOTION: Commissioner Evans moved to recommend to the full board consideration of approval to follow the county attorney's recommendation to award MBM Hospitality, LLC, Level 1 incentives.  
SECOND: Commissioner Melvin  
VOTE: UNANIMOUS (3-0)

#### 4. RECONSIDERATION OF ECONOMIC DEVELOPMENT INCENTIVES POLICY

##### BACKGROUND:

The Board of Commissioners and the Fayetteville City Council adopted a Joint Economic Development Program in June 2010. The Chamber of Commerce requested the joint program to support its economic development activities. The Chamber of Commerce's economic developers believed it would enhance their efforts by having uniform program guidelines for discussions of incentives with prospective projects. The economic developers also sought the program as a means for the governing boards to consistently evaluate proposed projects.

Five (5) economic development incentive agreements have been approved by the Board of Commissioners since the program was adopted. Thus far, none of those agreements have been finalized. The first two (2) projects for which agreements were approved under the joint program would have been eligible for the first annual incentive payment this year. The first approved agreement was for MBM Hospitality. The Agreement was never signed by MBM Hospitality and MBM Hospitality is currently requesting a new agreement based on fewer jobs and less investment. The second agreement was with SSU. SSU never signed the original agreement and requested a different agreement based on fewer jobs and less investment a year after the initial approval. SSU did sign the second Agreement but did not make a request for its first annual incentive payment this year.

The points system for the percentage amount of the tax grant-back is just one component of the policy. The policy also requires that the project must serve a public purpose and must demonstrate that without the incentives, the project could not be developed sufficiently to accomplish the public purpose. The public purpose and economic

justification considerations are required by State law and the joint policy is written consistently with that State law.

It is the opinion of the county attorney that the joint program with the City of Fayetteville is a good approach and should be maintained; however, it is also the county attorney's opinion that the program has been so loosely applied to specific projects that the benefits the economic developers hoped to gain have simply been lost. This is for two reasons. First, the public purpose and economic justification components of the policy have been ignored. This is important because projects should not even be evaluated under the points-system if either the public purpose or the economic justification requirements are not met. Second, the criteria-based points system has been manipulated to generate the greatest amount of incentives instead of being used to consistently evaluate projects to generate the amount of incentives that is justified by the program. That is why the first two (2) projects were unable to comply with their respective approved agreements.

The public purpose and economic justification component cannot be ignored because these are legal requirements under State law. The points-system should not be manipulated because the projects must demonstrate they have met the obligations agreed upon in exchange for the incentives. When the project cannot demonstrate fulfillment of its obligations, State law prohibits the award of the incentive, or when the incentive payment has already been made, requires that it be recovered by the county.

The county attorney believes the joint program can be implemented in such a way that it will produce the benefits the Chamber identified when it requested the City and County to adopt it in 2010. The process by which projects are evaluated must begin with the public purpose and economic justification analyses. Only those projects which qualify under the public purpose and economic justification components should be rated by the eligibility criteria. The eligibility criteria need to be rewritten to better address the type and scope of the project that we are seeing. Some of the criteria should be restated to simply minimize the degree to which the language is subject to interpretation.

The county attorney has discussed these issues with Russ Rogerson, Chamber of Commerce, and believes that Mr. Rogerson agrees that the program can be strengthened with minor changes to the process and language.

**RECOMMENDATION/PROPOSED ACTION:**

The county attorney recommends that the Policy Committee direct county staff work with appropriate city staff and Russ Rogerson to rewrite the program language to address the issues discussed above for further consideration by the Policy Committee at its January 2015 meeting. The county attorney anticipates that the City will also support these changes.

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Mr. Moorefield reviewed the background information and recommendation/proposed action as recorded above and responded to questions.

Mr. Moorefield stated he believes there is strong merit to having a joint policy between the City of Fayetteville and the County. Mr. Moorefield stated the current concept is good but the application of the concept and the language currently in place needs to be cleaned up. Mr. Moorefield stated his suggestion is to direct staff to work together with City staff and Chamber staff and come back with tweaks and changes in the language that everyone believes will be more useful for this purpose.

Commissioner Edge stated he feels there is a lack of communication and until the communication issue is cleaned up the policy revision will not fix anything.

Commissioner Faircloth stated he does not have a problem with the policy as written but he supports the policy being tweaked if it needs to be tweaked. Commissioner Faircloth stated all he wants is for the policy to follow State law and wants the Board of Commissioners to follow the policy. Commissioner Faircloth further stated the board has the authority to circumvent our own policy but does not have the authority to circumvent State law.

Commissioner Evans stated he feels the majority of the policy is good as written and he hopes that once it leaves the Board of Commissioners that it is presented in a manner that is reflective of what the board wanted.

Chairman Council stated she wants the City of Fayetteville and Cumberland County to be in agreement and work very closely together on this issue and feels there needs to be negotiating room in the policy. Commissioner Keefe stated he agrees with Chairman Council that it is imperative that the City and County agree on this policy.

Rochelle Small-Toney, City of Fayetteville, stated the City is more than willing to participate with the County on incentive programs. Ms. Small-Toney further stated she feels the points-system provides a certain amount of protection and she strongly recommends the points-system stay in the policy. Ms. Small-Toney stated she feels the governing bodies need to be flexible because some things may happen that prevent companies from meeting certain goals. Ms. Small-Toney stated she feels there should be a great deal of conversation with City and County staff before it reaches the governing boards and the incentives packages need to be thoroughly reviewed and not done in isolation of each other.

Mr. Rogerson stated communities have to have an incentives policy and it is very important for the City and County to communicate expectations clearly. Mr. Rogerson further stated when expectations are clearly made he is able to truly and accurately reflect the wishes of the City and County. Mr. Rogerson stated he agrees the policy needs to be tweaked because deals coming back in for reconsideration are not good for anyone. Mr. Rogerson stated he will work closely with County and City staff to bring back recommendations that meet everyone's expectations.



Amy Cannon, County Manager, stated she agrees with everything that has been discussed and she has worked closely with the county attorney and the Chamber and will continue working closely with them to strengthen the current policy.

The consensus of the Policy Committee was to direct staff to work together with the City and Chamber and bring back recommendations to improve the current economic development policy.

5. DISCUSSION OF INFORMATION RELATED TO THE AFFORDABLE CARE ACT (ACA) IN THE DETENTION CENTER

BACKGROUND:

The intent is to share information related to the Affordable Care Act in the Detention Center, as it relates to a holistic approach to improve the Detention Center.

RECOMMENDATION/PROPOSED ACTION:

Consider areas to improve the Detention Center.

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Commissioner Keefe stated he began having preliminary discussions about eighteen (18) months ago regarding the increasing number of detainees at the Detention Center and the potential high costs that goes with the care of each detainee and how the County could possibly save money. Commissioner Keefe further stated as he dug deep and realized the savings were only a small part of the overall picture of Jail Health and the ongoing issues with detainees.

Commissioner Keefe stated over 50% of detainees in the jail right now are clinically diagnosed mental health patients and there is an 89% recidivism rate which basically means nine (9) out of ten (10) detainees have been there before. Commissioner Keefe stated he would like to look at prevention rather than detention and would like a program that would allow the detainees to still get the medical services they receive after they leave the detention center. Commissioner Keefe further stated detainees that leave the jail no longer have access to counseling and/or medication and would fairly quickly end up back at the Detention Center.

Commissioner Keefe stated the idea came up to look into possibly enrolling the detainees into the Affordable Care Act (ACA). Commissioner Keefe stated the County is responsible for the medical care of the detainees and the only relief given is the state legislation that gives the County a 30% discount from the hospital for services the hospital provides to detainees. Commissioner Keefe stated if the County is able to get detainees on the ACA the County would save money and more importantly could reduce recidivism by having the detainees work with a case manager upon release.

Commissioner Keefe stated there were a lot of agencies involved and introduced Buck Wilson, Public Health Director. Mr. Wilson stated he has been working with different agencies to see about getting the detainees on an insurance plan so they will have an insurance card inside of the jail and also when they get out of jail.

Commissioner Keefe stated if detainees were to get out of jail with an insurance card they would be able to continue receiving medication and healthcare. Commissioner Keefe stated the Mental Health Alliance has taken a holistic approach to mental health. James Lawson, Deputy County Manager, stated the Alliance has been looking at issues affecting communities in Cumberland County and the challenges in jail health is one of the many areas they are looking into. Mr. Lawson further stated access to care is very important but there are a number of other issues affecting detainees and case management is a piece they are looking at right now such as helping people get providers once they get out of jail and staying connected.

Commissioner Evans stated he feels there are other issues such as employment and housing that would help prevent recidivism. Mr. Wilson stated this is a very comprehensive plan and healthcare for detainees is a very small piece of a large puzzle. Commissioner Evans stated it is one piece of the puzzle that needs to be addressed but thinks it is premature to address the health insurance piece when he thinks the housing and employment piece should come first. Commissioner Evans further stated some medications are extremely expensive and he does not see how detainees will be able to keep up the insurance if they do not have a job or housing. Mr. Wilson stated this idea is from a public health standpoint and there are insurance plans that do not cost anything and agencies such as CC MAP that will help with medication assistance.

Commissioner Faircloth stated he feels this is a terrific idea and would like to see this take place as soon as possible. Chairman Council asked how much this would cost the County. Commissioner Keefe stated so far the case managers and everything discussed are within the current budget.

Commissioner Keefe stated in talking with the jailer, public health and the attorney there are a lot of merits in the idea but there is one road block which is that Blue Cross Blue Shield (BCBS) will not accept third party payers for health insurance. Commissioner Keefe further explained that state and federal agencies can do third party payments but local governments cannot. Commissioner Keefe stated some entities have challenged this and have received positive outcomes. Commissioner Keefe stated he would like to authorize K&L Gates, the law firm that represents the hospital and has expertise in these issues, send a letter to BCBS to determine if we can negotiate this issue with BCBS. Mr. Moorefield stated this should not be a very expensive matter for this firm to do and there were sufficient funds in the general litigation fund to pay for this.

Commissioner Keefe stated if the negotiation is successful it would help the county with some cost savings, help the county with detention center capacity and help jail recidivism while also helping providers that give out their services at 30% less and most importantly, helps the clients get back on their feet. Commissioner Keefe stated taking a

proactive approach on mental health issues and even some physical health issues in our community could put detainees back into society instead of back in the jail.

Commissioner Faircloth stated he does not want to get too far down the road with any kind of commitments from the County other than this first step. Commissioner Faircloth further stated he feels this is a great first step that can lead to better things but he is not willing to commit beyond the first step until we know what is involved.

MOTION: Commissioner Melvin moved to recommend to the full board consideration of approval to authorize the county attorney to engage in outside legal counsel from the general litigation fund as long as it is within budget to ask Blue Cross Blue Shield to accept third party payments for this program.

SECOND: Commissioner Evans

VOTE: UNANIMOUS (3-0)

#### 6. OTHER ITEMS OF BUSINESS

Commissioner Keefe thanked Commissioner Melvin for being a great committee member and commissioner. Commissioner Melvin thanked everyone on the committee and board and stated he will miss everyone and knows the County is moving in the right direction.

There were no other items of business.

MEETING ADJOURNED AT 11:37 AM