

December 18, 2019

The Washington County Board of Commissioners met in an Emergency Called Meeting on Wednesday, December 18, 2019 at 4:00 PM in Commissioners’ Room, 116 Adams Street, Plymouth, NC. Commissioners Johnson, Phelps, Riddick, Sexton and Walker were present. Also present were County Manager/County Attorney Curtis Potter, Clerk to the Board Julie J. Bennett and Finance Officer Missy Dixon.

Chair Phelps called the meeting to order at 4:02 PM. Chair Phelps thanked the Board members for coming on such short notice and thanked the public also. Chair Phelps mentioned that there is no public comment period tonight and asked everyone to please turn off their cell phones and please do not talk to your neighbors as it distracts from the meeting.

UPDATE ON WASHINGTON REGIONAL MEDICAL CENTER (WRMC): Mr. Curtis Potter, County Manager/County Attorney spoke to the Board and mentioned that the County’s bankruptcy attorney, Ms. Terri Gardner, was on speakerphone to take part in tonight’s meeting. Mr. Potter distributed a timeline (see below) and discussed it with the Board. Mr. Potter reminded the Board that there is \$4.25M in unfunded hospital pension fund that is the responsibility of the County.

2007	WCH Hospital Sold
2012-2014	Entered into and emerged from the first bankruptcy, lost about \$750,000
	Retained Pension: \$5M Estimated Liability
Dec/18 – Jan/19	WC began hearing about cash flow concerns
2/4/19	County engaged Nelson Mullins Law Firm to assist in review of options with Hospital
2/14/19	Full Diversion/Closure
2/19/19	Bankruptcy Filed
2/22/19	Trustee Appointed
	Hospital Reopened
	Affinity Healthcare appointed by Trustee to Manage/Operate
	Rebranding, Improvements
	Bankruptcy Case Progress – Stalking Horse Bid Model – Affinity
9/9/19	Affinity Met with Board
11/19/19	Greenville Hearing to Approve Affinity as Stalking Horse Bidder & Sale Procedures
12/13/19	Payroll Missed
12/14/19	County email to Trustee & Affinity re payroll and transparency concerns
12/17/19	230PM Status Conference by Judge Calloway
12/18/19	Trustee’s staff confirmed Affinity still working on financing for purchase of hospital
12/18/19	Trustee’s staff confirmed no funding available to cover payroll and requested County consider funding hospital obligations via loan

Mr. Potter said he just became aware of WRMC’s payroll that was missed on 12/13/19. Mr. Potter said he has been in touch with a number of different parties to find out what is transpiring.

Affinity's press conference yesterday answered some of those questions. The County emailed the Trustee and Affinity regarding the missed payroll and transparency concerns.

Mr. Potter told the Board there is a "Show Cause" hearing tomorrow (Thursday) December 19 at 10:00 AM in Greenville which was called by the Bankruptcy Judge for information to show why he shouldn't close WRMC seeing as they can't meet payroll or pay other bills. Mr. Potter said the County has been asked to fund the missed payroll. Mr. Potter discussed the following three (3) options:

Options:

1. Board takes no immediate action until additional information and facts concerning the hospitals actual financial performance and Affinities actual financial backing and assurances can be obtained and reviewed.
 - This critical information has been requested repeatedly from Affinity and the Trustee by the Board since September and has gone largely unprovided despite the repeated requests until the last 24 to 48 hours.
2. Board authorizes an unsecured loan of somewhere between \$500,000 up to \$650,000 to cover about 4 to 6 weeks of payroll, and other immediately owed payables through 12/31/19 and into January 2020.
 - Hospital may close with or without this funding depending on judicial review of other factors and circumstances, but it may support arguments by Trustee and Affinity to keep facility open until a potential sale of the facility to Affinity in January 2020, although they do not currently have financing presently lined up to actually fund the purchase of the hospital and there is no guarantee of such a sale at this point.
3. The Board continues to support the efforts of the Bankruptcy Trustee and its agent Affinity to keep the hospital facility open and operating pending an eventual sale to Affinity or another qualified buyer under the supervision and approval of the Bankruptcy Judge. At this time given the information currently available and unavailable, as well as the quickly evolving facts and circumstances involved, the Board chooses to ultimately defer to the discretion of the bankruptcy court which has called a hearing for 10AM on 12/19/19 where additional information will be presented by multiple parties with respect to determining what measures if any could or should be taken to protect the mutual interests of all parties involved in the bankruptcy including those of the county to retain an open and operating hospital as a critically important part of delivering vitally needed healthcare services to its citizens as well as serving as a cornerstone to the county's local economy.

Chair Phelps asked the Board members if they had any questions for Mr. Potter. Commissioner Johnson asked if, as of the last court ruling, the right of reverter was still retained. Mr. Potter said the judge addressed that and it is still in play. Chair Phelps asked Mr. Potter to explain what the right of reverter is. Mr. Potter stated that it is in statute 131e. Mr. Potter said the short version is that property and equipment would revert back to the entity who sold it. Commissioner Johnson said she wanted to hear from Mr. Avignone before asking any more questions.

Commissioner Riddick said she was a little confused. How can Affinity purchase WRMC if they don't have the funds for payroll?

UPDATE ON WASHINGTON REGIONAL MEDICAL CENTER, Mr. Frank Avignone, CEO, Affinity Health Partners, spoke to the Board. Mr. Avignone said that Affinity Health Partners starting operating WMRC on May 15th. The issue they have is that money is sitting in Medicare funds. He said that WMRC Medicare reimbursements were looking good, but WMRC had to change billing software (they didn't have a legal license for it). Mr. Avignone said WMRC really started making money in July. He said they can operate if CMS releases funds in Medicare. He said he has foregone his fee for the last four (4) months. He said he has been on the phone with four (4) other lenders but they pulled out at the last minute. Cobalt Capital Partners is who he has his contract with and is willing to share his contract with the Board. Two companies have said they are willing to step in to help. His partners are on the phone getting dates and figures while he is in the meeting tonight and hopes to have something to relay to the Board tonight. He said WMRC is not operated on revenue but on cost and he doesn't want margins over 1%.

Chair Phelps said he would like to go back to Commissioner Riddick and what she was saying. Commissioner Riddick said she is disappointed because when Mr. Avignone first came to the Board, he had all these great ideas and now the County finds itself back at square one. How is Affinity going to purchase WRMC when they can't meet payroll? Mr. Avignone said Affinity was prepared for the slowdown of Medicare payments, but not the complete cutoff. Commissioner Riddick asked how long this has been going on. She went on to say that if WRMC runs reports every day, why didn't they see this coming? Mr. Avignone said he was guaranteed that the funds would be coming. He said he even put his own house up as collateral. He is staying at WRMC to stabilize it.

Chair Phelps asked Mr. Avignone how much is payroll. Mr. Avignone said it is \$200,000-\$209,000 for payroll each month. Mr. Avignone also explained that financing for buying WRMC is handled by other companies, not ones that do bridge loans.

Commissioner Johnson said Mr. Avignone referred to other hospitals as if this was a network. What is the status of those hospitals? He said that there are three (3) in OK that are operating—two (2) in good shape, and one (1) not in good shape. Commissioner Johnson said it sounded like Mr. Avignone is trying get funding for all these hospitals, not just the one in Washington County. He mentioned again that he has a contract with Cobalt Capital and is willing to share that with the Board.

Commissioner Walker said it sounds like the other hospitals are in the same status as Washington County's. Mr. Avignone said no, the other hospitals are worse. WRMC was making money. He noted that there are no electronic medical records and staff was putting in \$200,000 worth of claims a day. Commissioner Walker said what disappoints him personally is that when Mr. Avignone was first here, he got the Board's hopes up. Commissioner Walker told Mr. Avignone that he had to have been aware of this status before last week. Commissioner Walker said he is upset that the employees have not been paid and they were depending on Mr. Avignone.

Mr. Avignone said he is being advised by a lot of different attorney's on different things. He has to have approval from three (3) different sources.

Commissioner Sexton asked what Affinity's worth is. Mr. Avignone said Affinity's worth is \$3.1M. Mr. Avignone said he owns it and said he has forgone his management fees for the last four (4) months. He said Affinity can only put money into the hospital for certain things, such as medication.

Commissioner Sexton asked how the Commissioners are supposed to tell the taxpayers that the Commissioners are taking their money to pay the hospital employees and then raising their taxes to cover it. Mr. Avignone said he should be having \$1M coming back from CMS to pay the County back. Commissioner Sexton asked would the County have first lien. Mr. Avignone said no, First Capital does, then the County.

Mr. Avignone stated there were seven (7) people currently in WRMC and WRMC averages 18 in the ER every day. Mr. Avignone said he is trying to get the County the 1st spot on the financial list for getting the money back instead of 2nd spot.

Commissioner Sexton asked what Mr. Avignon's background is. He said he has a Bachelor of Science, Master in Finance, a law degree, and he is working on second doctorate. Commissioner Sexton said that all sounds good and he appreciates his passion. Commissioner Sexton said the County wants what is best for the hospital employees and the taxpayers.

Mr. Avignone said that WRMC is a good hospital. It is the best out of all that got in trouble with the previous company. He said he doesn't want to see this hospital close.

Chair Phelps said the Board is frustrated that Mr. Avignone said he saw this coming but didn't ask for help until the 11th hour. Mr. Avignone said two things played into this: WMRC had an illegal license for the billing software and couldn't use that (he had various staff members keying in the information) and didn't anticipate the CMS cutoff. He said that \$1.6M is being held by Medicare.

Chair Phelps asked what Mr. Avignone's backup plan is if the County can't help them. He said he has some doctors willing to give him funds of approximately \$150,000 but that isn't enough. Doctors may be rich but they aren't liquid.

Mr. Potter asked if the current employees are getting their benefits. Mr. Avignone said yes. He said he is also on the benefits plan. Mr. Potter said originally Affinity was only looking at the medical mall in Kansas and Washington County. Mr. Potter said that tonight Mr. Avignone said Affinity was interested in 5 hospitals. Mr. Potter asked Mr. Avignone if Affinity has a way to keep the funds separate from each facility. Mr. Avignone said yes. He also said he wants WRMC to be non-profit.

Mr. Potter said he has heard concerns that new providers have been brought in at higher salaries which is eating up WRMC's budget. Mr. Avignone said good providers bring in the patients. He would also like to bring in another primary care physician. Mr. Avignone said \$210,000 is payroll now with all services (except surgery) and payroll is done biweekly.

Mr. Potter asked Mr. Avignone what the County can do to help. Mr. Avignone said he will send Mr. Potter phone numbers and put him in contact with his bank.

Chair Phelps said he hopes that the public can see why an Emergency Meeting was called. The Board has important issues to discuss.

Commissioner Riddick made a motion to go into Closed Session pursuant to NCGS §143-318.11(a)(3) (attorney-client privilege). Commissioner Sexton seconded, motion carried unanimously.

At 5:31 PM, back in Open Session, Commissioner Sexton said that the Board has put a lot of thought and discussion into this. The Board does support WRMC and hopes the motion below shows that; however, he feels the Bankruptcy Judge will make the ultimate decision.

Commissioner Riddick made a motion to direct staff to work with the Bankruptcy Trustee and/or Affinity to put together a potential bridge loan package not to exceed \$500,000 to be extended by the County to help facilitate the payment of payroll and other critically essential bills, and only upon the condition that First Capital subordinates its claims in the bankruptcy to Washington County, and that Affinity shows reliable proof of financing to actually close upon the purchase of the hospital facility by the Trustee as originally proposed to the bankruptcy court.

Commissioner Walker seconded. Commissioner Johnson mentioned that tomorrow morning (December 19) is the Bankruptcy Court case at 10:00 AM in Pitt County. Mr. Potter said that the County's attorneys are on the phone now with First Capital. **Motion carried unanimously.**

With no further business to discuss, **Commissioner Johnson made a motion to adjourn. Commissioner Riddick seconded, motion carried unanimously.**

D. Cole Phelps
Chair

Julie J. Bennett, CMC, NCMCC
Clerk to the Board