FINANCE MEETING
COMMISSIONERS' HEARING ROOM
Wednesday, June 17, 2015, 1:30PM

Present: Commissioners Barbara Cross, Jim Hertzler and Gary Eichelberger; Larry Thomas, Chief Clerk; Bob Dagrosa, Dana Best, Liz Bouch, Keith Brenneman; Steve Marroni, The Patriot News; Joshua Vaughn, The Sentinel; Joanne Jones, Premier Healthcare Resources (PHR); BarbaraSue Hershey, Recording Secretary

Chief Clerk Thomas welcomed everyone to the Finance meeting.

The topic for discussion: **Presentation on Claremont Nursing and Rehabilitation Center (CNRC) 501(c)3**: Dana Best, Liz Bouch, Keith Brenneman, Bob Dagrosa, Larry Thomas, and Joanne Jones - PHR

Some Key Slides are:

What is a 501(c)3

- Section 501(c)3 is a tax law provision granting exemption from the federal income tax to non-profit organizations
    - This exemption does not cover other Federal taxes such as employment taxes
- None of its earnings may inure to any private shareholder or individual
- May not be an action organization
- May not participate in any campaign activity

The Options

Options	Purpose/Description	CNRC Status
1	Create a 501(c)3 to raise private funds through a non-governmental, tax deductible channel overseen in part by "friends of CNRC" outside the Government	Unchanged; remains a County Department and a County Home as it is currently
2	Transfer CNRC assets to a 501(c)3 controlled by the County, with the County retaining financial responsibility for CNRC	CNRC is no longer a County Department, employees no longer County employees but CNRC remains a County Home
3	Transfer CNRC assets to a 501(c)3 controlled by a Community Board with by-laws that seek to maintain a mission similar to CNRC's without County control or financial responsibility	CNRC no longer a County Department nor a County Home; employees no longer County employees

Why Might the County Consider Options 2 or 3?

- Employees are employed by the 501(c)3 and not the County
  - Do not have to conform to County policies HR, bidding, purchasing, etc.
  - Carve out pension, and insurances from the County
  - Normally reduces pension costs to the County
  - Benefit program is different, potentially less costly than the County's benefits as currently offered
  - Reduction of overall costs seeks to make facility self-sufficient
  - 403(b) for retirement typically used

501(c)3 Option 1 - Charitable Giving

- Can be done without altering current status of CNRC and its employees
- County helps develop a 501(c)3 as a channel for private charitable contributions
  - Contributions to current CNRC are tax deductible
  - Some people don't feel government is suitable for charitable donations
- Allows for broader community leadership in fund raising for CNRC
- Can be used with any ownership model

501(c)3 Option 2 - County Controlled County Home

- CNRC assets transferred to a separate 501(c)3 under County control
- CNRC no longer a County Department
  - Legally a separate, non-County organization
- County elects via incorporation, by-laws to retain control, County Home status and ultimate financial responsibility
- Board remains the same
  - Board of Commissioners retains decision making authority by virtue of majority of CNRC 501(c)3 Board of Directors
- Reimbursement remains on basis of rates for County owned facilities
- Financial responsibility remains with the County by choice
  - 501(c)3 can be run as separate enterprise, but….
  - County is guarantor, cosigner for all debt, expenses

Requirements for 501(c)3 to Remain a County Home

- PA Code 1189 defines County Nursing Home
  - A newly constructed, licensed and certified County nursing facility
  - An existing nursing facility that through a change of ownership is controlled by the County institution district or by County government if no County institution district exists.
  - "Controlled" means the power to direct or cause to direct the management and policies of the nursing facility, whether through equitable ownership of voting securities or otherwise.
- County designation is for Medical Assistance (MA) reimbursement only
  - No difference in licensure or certification status from Centers for Medicare & Medicaid Service (CMS) or PA
- CMS considers a change to 501(c)3 status as a change in ownership
  - Requires new paperwork to be done
  - No change in provider agreement

501(c)3 Option 3 - No Longer a County Home

- CNRC ownership is transferred (not sold) to a separate non-profit organization that the County creates
- Board Composition changes; Board of Commissioners (BoC) cannot retain majority
- Via articles of incorporation and by-laws, County elects to relinquish control as well as responsibility for the finances of the facility
- CNRC status with CMS/ Department of Health (DoH) is no longer a County Home; is now a non-profit
- Reimbursement changes
  - Facility reimbursed in the same fashion as all other Commonwealth non-county facilities
  - Acuity based reimbursement system
  - All county add-ons are forfeited
  - Based on the Carbis Walker (CW) Study, new entity could receive additional $462,577 per year from state based on non-profit MA Case Mix Index (CMI)

Debt and Cash Management

- Credit rating for Bonds, borrowing
  - New 501(c)3 entities would not be backed automatically by County's taxing authority
  - 501(c)3 Option 2
    - County's bond rating would be impacted by finances of new entity
    - County could choose to guarantee Option 2 debt via lease/rental debt
    - County ultimately responsible for Option 2 finances
  - 501(c)3 Option 3
    - County's bond rating not impacted by finances of new entity
    - County could choose to guarantee Option 3 debt via lease/rental debt; if we do, would impact County bond rating
- Cash management
  - Both Options require sufficient cash flow resources to meet needs
  - Option 2 might have easier access to supplemental County loans
  - Option 3 less likely to have preferred access to County loans
- Under Options 2/3, 501(c)3's would not fall under county code for investment purposes; potentially could earn a higher rate of return.

Union Issue – Current Contract

- Option #2
  - Per Prison Labor Relations Board (PLRB), since there is not a current article that addresses subcontracting this work, the County will need to "bargain" its way out of the current contract
  - Prison scenario – 2011
    - 2 weeks of pay/years of service – min 8 weeks, max 13 weeks
    - If similar agreement applied here could cost approx. $1.5 M *Does not include PT and/or per diem employees
- Option #3
  - No requirement to "bargain" since the County would be "getting out of the business".
  - Could potentially de-value the property since buyer would have to assume Collective Bargaining Agreement
  - During upcoming negotiations propose an Article that addresses the Preservation of Bargaining Unit work – requires Meet and Discuss
  - Prevents severance package if bargaining unit work is contracted out

Summary

- Looked at three 501(c)3 options for CNRC
  1. Channel for charitable giving can be used to support CNRC as County Department
  2. Option 2 – ownership transfer to new entity with County retaining control/fiscal responsibility
  3. Option 3 – ownership transfer to new entity where County divests control/fiscal responsibility
- Advantages to County/facility – lower benefit costs, high state MA CMI reimbursement rates
- Disadvantages to County/facility centered around decrease in risk pools, indirect cost distribution (could work in facility's favor), possible dissipation of mission
- Labor issues involved that would need to be negotiated through collective bargaining with American Federation of State, County and Municipal Employees (AFSCME)

Conclusion

- If County wants to get out of Skilled Nursing Facility (SNF) business altogether, outright sale makes the most sense
- If County seeks to retain control (Option 2) or influence (Option 3), reductions in costs of operations from 501(c)3 is worth considering for both County and CNRC
  - With strong management in place, CNRC has potential to reduce costs, increase revenues
  - If CNRC as County Department begins to require General Fund subsidy, this provides flexibility to increase revenues, cut costs, right financial situations without selling, thus retaining mission to community, seniors and families
- 501(c)3 as charitable giving channel (option 1) can anchor new private revenue strategy

See complete attached presentation

The meeting adjourned at 2:39 PM.

Respectfully Submitted,

BarbaraSue Hershey,
Administrative Coordinator

Considering the Relevance of 501c3 Status to CNRC Ownership

Presentation to the
Cumberland County
Board of Commissioners

Current Notions, Myths about 501c3 Status

- Have used concept of 501(c)3 as an option for CNRC to achieve different goals
- What are those goals?
- This presentation provides information on 501(c)3 options for CNRC
  - What are the options?
  - What are the pros and cons?
  - What is the financial impact for each options?
  - What are the implications for governance and control?

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What is a 501(c)(3)

- Section **501(c)(3)** is a tax law provision granting exemption from the federal income tax to non-profit organizations.
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Menu

- Can do option 1 as a stand alone supporting the current County department, or with either option 2 or 3
- Options 2 and 3 are mutually exclusive
- Why not just sell?
  - 501(c)3 options 2 and 3 permit the County to preserve CNRC's mission to County residents while getting the County out from under some current obligations
  - Selling to a 3rd party divests the County from any direct or indirect control of CNRC;
    - Could be resold, go to for profit, even closed down
    - Becomes an asset in a third party's business plan

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Why Might the County Consider Options 2 or 3?

- Employees are employed by the 501(c)3 and not the county
  - Do not have to conform to county policies HR, bidding, purchasing, etc.
  - Carve out pension, and insurances from the county
  - Normally reduces pension costs to the county
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  - Reduction of overall costs seeks to make facility self-sufficient
  - 403 (b) for retirement typically used

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501(c)3 Option 1
Charitable Giving

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501(c)3 Option 2
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501(c)3 Option 3 No Longer a County Home

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  - Based on CW Study, new entity could receive additional $462,577 per year from state based on non-profit MA CMI

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Two Case Studies of Counties That Opted to Transfer Ownership of Their Facility to a 501(c)3

Case Study # 1 PVM

- Separate Pension Plan
- Choice between self-insured or fully insured insurance plans
- Purchasing separate from county
- Independent union negotiations
- Separate Wage/Benefits 20-30% less
- HR. at facility level
- From 3 million in losses to break even
- Fully insured
- Board
  - 3 Commissioners
  - 2 Community members
  - Eligible for grant programs available to nonprofit entities

Case Study # 2 Susqueview

- Separate Pension Plan
- Choice between self-insured or fully insured insurance plans
- Purchasing separate from county
- Independent union negotiations
- Separate Wage/Benefits 20-30% less
- HR. at facility level
- 146 beds and 4 IL apartments
- Profit of $100-200 per year
- $3 million cash in bank
- Board composed of 3 commissioners
- Self-insured

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Pros and Cons of Transferring CNRC Assets to 501(c)3 Options 2 and 3

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Pros of 501(c)3 Options 2, 3

- Separation of employee benefit programs from the county may allow Claremont to reduce its benefit costs.
  - This may be of particular benefit if pension costs can be reduced
- Eliminates burden of part time workers qualifying for state pension fund when they average more than 1,000 hours in a year
- CNRC may be able to purchase HR, IT other services at less cost from non-County third parties

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Cons of Each 501(c)3 Option

- Option 2
  - Still financially responsible for CNRC
  - Must file an annual 990 return
  - Reduction of pool for self-funded programs (health insurance, Workers Comp, pension) may result in higher county costs
  - Specific requirements must be met to maintain status as a 501 (c)(3) organization
  - Changing benefits could meet with union resistance
  - County can't allocate county costs to the nursing home
  - CNRC must purchase services or bring them in house i.e. IT services v. receiving them from County

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Cons of Each 501(c)3 Option

- Option 3
  - Must file an annual 990 return
  - Reduction of pool for self-funded programs (health insurance, Workers Comp, pension) may result in higher county costs
  - Separation from the county may disrupt alignment with goals, initiatives of County
  - Specific requirements must be met to maintain status as a 501 (c)(3) organization
  - Changing benefits could meet with union resistance
  - County can't allocate county costs to the nursing home
  - CNRC must purchase services or bring them in house i.e. IT services v. receiving them from County

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Impact on Revenues 501(c)3 Options 2 and 3

- Option 2
  - County controlled non-profit
  - No change to rates
- Option 3
  - Non-profit – not affiliated with County
  - Estimated increase of $462,577 in revenue from state based on use of non-profit MA CMI formula

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Impact on County, CNRC Revenues, Expenses, Debt Management

Impact on Expenses for 501(c)3 Options 2 AND 3

Benefits – no longer part of the County's benefits

- Health Care
- Retirement
- Worker's Compensation
- Unemployment Compensation

The following benefit slides are based on the assumption that the non-profit would not be included in the County's benefit structure. The non-profit could purchase health care and workers compensation from the County.

Health Benefits

- The 501(c)3s –both types - would no longer be part of the County health benefit plan.
  - Possibility of reducing health coverage costs via a different set of plan offerings
- Impact on the rest of the County
  - The County would remain a large group.
  - CNRC employee average claims are about the same as the County average claims.
  - There is no data supporting an increase or decrease to the County's insurance premium rates.

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Retirement – Options 2, 3 No Longer Part of County Defined Benefit Plan

- County Impact
  - No longer part of the annual required contribution for the County.
  - Short term, an analysis will need done to calculate the impact of involuntary separation benefits including the cost to fund.
  - Long term, no longer impact the defined benefit plan.
- 501(c)3 Options 2, 3
  - Separate retirement plan from the County
  - Able to control/set contribution rates into employee owned defined contribution plan
  - Predictable

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Retirement

Under 5 Years Of Service And Under Age 60	Between 5 and 8 Years Of Service And Under Age 60
Lump Sum Distribution Of Your Contributions and Interest Does not include any County Contributions	Lump Sum Distribution Of Your Contributions and Interest or Vest Your Contributions Up to Age 60 then Begin Pension

Retirement

ELIGIBLE FOR A PENSION

Normal (Superannuation) Retirement	Early Retirement	Early Retirement
Age 60 Or Age 55 with 20 Years of Service	Voluntary = 20 Years of Service But Not Age 55	Involuntary = 8 Years of Service and Under Age 60
1) Begin Monthly Pension Immediately at a 100% 2) Or Vest and Start Pension Later	1) Begin Monthly Pension Immediately at a Reduced Rate Based on Your Age 2) Or Vest and Start Pension Later	1) Begin Monthly Pension Immediately at a Reduced Rate Based on Your Age 2) Or Vest and Start Pension Later

Retirement

- Any future impact would be determined by an actuarial analysis.
  - Factors such as length of service, salary and age at time of any change are significant.
  - While less employees generally means a lower ARC, if a significant 'mature population' is departing, there may be an acceleration of liability funding required.

Retirement

Nursing Home Retirement Employees
as of March 2015

118	Up to 5 years
47	5 – 8 years
72	8 – 20 years
52	20+
289	Total

Worker's Compensation (WC) Unemployment Compensation (UC)

- County Impact
  - CNRC employees are about 22% of the county salary expense and about 27 % of total number of employees
  - Cost of CNRC WC claims paid over the past 5 years are 80% of all claims paid
  - Cost of CNRC UC claims on average 48% of all claims paid
- 501(c)3 Options 2, 3 Impact
  - Most likely will have higher costs because they will be in a smaller pool with higher risk positions for injury and turnover.

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Worker's Compensation and Unemployment Compensation

	Total County General Ledger expense	Total CNRC General Ledger Expense	% of expense charged to CNRC	CNRC average % of claims over previous 5 years
Salaries	$52,544,123.00	$11,654,117.00	22.18%	
Worker's Comp	$560,211.00	$189,866.00	33.89%	80%
Unemployment Compensation	$58,705.00	$17,507.00	29.82%	48%

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Impact on Indirect Costs

- County
  - The County will no longer have CNRC as a revenue source for indirect costs.
  - Fixed costs will be shared over a smaller base.
  - Variable costs may be eliminated.
- 401(c)3 Options 2, 3
  - Will need to provide internal service functions either by hiring or contracting
    - Purchasing
    - IMTO
    - Financial/HR/Payroll Software
    - Accounts Payable
    - Cash Management
    - Debt Management
    - Audit
    - Maintenance
    - Human Resources
    - Solicitor/Legal

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Debt and Cash Management

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Labor Issues

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Union Issue – Current Contract

- **Option #2**
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  - Prison scenario – 2011
    - 2 weeks of pay/years of service – min 8 weeks, max 13 weeks
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Future Issues

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Summary

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Conclusion

- If County wants to get out of SNF business altogether, outright sale makes most sense
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  - With strong management in place, CNRC has potential to reduce costs, increase revenues
  - If CNRC as County Dep't begins to require General Fund subsidy, this provides flexibility to increase revenues, cut costs, right financial situation without selling, thus retaining mission to community, seniors and families
- 501(c)3 as charitable giving channel (option 1) can anchor new private revenue strategy

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