



JEFFERSON COUNTY BOARD OF HEALTH

Wednesday, August 8, 2018 - 5:00 p.m.

5th Floor Board Room

PRESENT: Max Michael, III, M.D., Joshua Miller, D.O., Yocunda Clayton, M.D., Sylvie Stacy, M.D., and Hernando Carter, M.D.

ABSENT: Commissioner Jimmie Stephens

OTHERS

PRESENT: Mark Wilson, M.D., David Hicks, D.O., Toni Bellina, Senitra Blackburn, Kim Cason, Rodney Holmes, Paul Irwin, M.D, David Maxey, Esq., Jonathan Stanton, and Denisa Pridmore

Call to Order

The meeting was called to order by Dr. Miller, Chair.

Minutes

Minutes of the July 11, 2018 meeting were approved as distributed.

Red Rock Trail System and Environmental Protection Project Fund

Dr. Wilson discussed the proposal for the establishment of a new “Red Rock Trail System and Environmental Protection Projects Fund” that was previously shared with the Board via email and is included in the meeting material. The \$4 million for this proposal is included in the Fiscal Year (FY) 2019 budget if the Board is in agreement with the project. Actual establishment of the Fund, how and where it is established, restrictions on how it is to be used, and approval to transfer JCDH funds into the Fund, will require a separate Board resolution at a later date. Dr. Wilson stated several options are being explored. He answered questions from the Board and asked them to let him know if they needed any additional information as this is being worked out.

July 2018 Financial Statements

Dr. Miller noted the July 2018 Financial Statements were included in the Board package. There were no questions from the Board.

FY 2019 Budget Presentation

Mr. Rodney Holmes, CPA, Director of Finance and Administration, presented the FY 2019 budget request.

Revenue Highlights

The budget includes \$7,288,198 of ad valorem tax, a \$210,198 (3%) increase from fiscal year 2018. This amount is an estimate of two percent (2%) of the ad valorem taxes collected in Jefferson County for the County and its Municipalities, excluding those ad valorem taxes collected for the State of Alabama and all Boards of Education, and is the minimum percentage allowed in the funding legislation. The budget includes sales tax revenue of \$23,500,000, an 11% increase from fiscal year 2018.

Net Operating Grants and Contracts of \$2,206,825 is a \$179,000 (8.8%) increase over prior year budget. Revenues for services provided by the Department in fiscal year 2019 are budgeted to be \$11,153,612. The decrease of \$100,255 (-1%) from the 2018 budgeted amount is primarily the result of a projected decrease in clinical services private pay and third party reimbursement.

The \$1,450,975 amount budgeted for Other Revenue/Non-Operating Revenue is higher than the prior year budget by \$101,450.

An allocation of \$5,049,828 from the Department's fund balance is expected to be required to offset expected expenditures.

Expenditure Highlights

Personnel costs of \$33,271,698 are \$2,860,564 (-7.9%) higher than those budgeted for fiscal year 2018. Salaries are 73% of personnel cost budget, with employee and retiree benefits representing 26% and 1% respectively.

Contract Services of \$7,364,467 are higher by \$4,307,398 (140.9%) than those budgeted in 2018 and are primarily due to the contracting of services for certain pilot programs included in the Department's 2017-2021 Strategic Plan. Materials and Supplies costs are projected to be \$9,093,273 which is a \$372,059 (4.3%) increase from fiscal year 2018.

The Capital Expenditure/Transfer budget of \$1,200,000 for capital asset replacement transfer remains unchanged from fiscal year 2018.

Capital Projects Fund

Expenditures of \$2,441,869 are planned for fiscal year 2019. This includes funds for capital improvements to the Guy M. Tate Building, the purchase of air monitoring equipment and the replacement of some IT infrastructure.

Special Revenue Funds

In addition to the General Fund Budget, the Department has ten active Special Revenue Funds expected to total \$6,205,045. These funds are operated in accordance with the funding requirements of special grants and appropriations.

The General Fund, Capital Projects Fund and Special Revenue Fund budgets for fiscal year 2019 total \$59,576,352.

Budget – Fiscal Year 2018-2019 & Cost of Living Increase

On the motion of Dr. Michael, and seconded by Dr. Clayton, the following resolution was approved:

BE IT RESOLVED that the General Fund Budget of the Jefferson County Department of Health for fiscal year October 1, 2018 through September 30, 2019, in the amount of \$50,929,438 is adopted. This budget includes a 1% cost of living increase for eligible Jefferson County Department of Health employees effective September 29, 2018.

BE IT FURTHER RESOLVED that all Special Revenue Fund Budgets for fiscal year October 1, 2018 through September 30, 2019 are adopted.

Transfer of Funds

On the motion of Dr. Michael, and seconded by Dr. Clayton, the following resolution was approved:

BE IT RESOLVED that the Health Officer of the Jefferson County Department of Health is authorized to transfer funds from one category or line item to another within the General Fund and all Special Revenue Funds, as necessary, to improve Department efficiency, as long as the approved General Fund Budget is not exceeded for the fiscal year October 1, 2018 through September 30, 2019.

JCDH Public Health Advised Fund

Dr. Wilson stated the following resolution will allow transfer of additional funds into the Public Health Advised Fund to further advance public health purposes in the community guided by the JCDH Strategic Plan and the Community Health Improvement Plan (CHIP). The \$2 million will be taken out of this year's budget but the resolution will allow an amendment to the budget if needed.

On the motion of Dr. Michael, and seconded by Dr. Clayton, the following resolution was approved.

WHEREAS, the Jefferson County Board of Health (JCBH), on August 10, 2005, at a regularly called meeting, approved the attached Resolution (attachment 1) to establish the Public Health Community Projects Fund (PHCP Fund) and provide that earnings from the PHCP Fund be transferred to the Community Foundation of Greater Birmingham (CFGB) to manage and administer grants under CFGB Fund Policies; and,

WHEREAS, JCBH, on September 14, 2005, at a regularly called meeting approved the attached Resolution (attachment 2) to amend its 2005 Budget by Five Million Dollars as the portion of unrestricted General Fund net assets designated as the PHCP Fund from which earnings would generate to transfer to CFGB; and,

WHEREAS, CFGB and JCBH entered the attached Advised Fund Agreement (attachment 3), dated August 14, 2006, that establish the terms that CFGB will manage the Jefferson County Public Health Fund of The Community Foundation (Advised Fund) and administer grants from the Advised

Fund to preserve, protect and enhance the general health and environment in Jefferson County, Alabama; and,

WHEREAS, the Attorney General of the State of Alabama, Honorable Troy King, on February 13, 2007 issued the attached Attorney General Opinion 2007-047 (attachment 4), concluding;

The Jefferson County Board of Health may enter an agreement with the Community Foundation of Greater Birmingham under which, and subject to the required annual budget review and approval process, the Board will provide funds to the Community Foundation of Greater Birmingham for use in public health work projects in Jefferson County if the Board determines that the agreement will further the Board's purposes.”

WHEREAS, JCBH is under agreement with CFGB to manage and administer the Advised Fund; and,

WHEREAS, the JCBH desires to increase the funds provided to CFGB above the earnings from the PHCP Fund; and,

WHEREAS, the Health Officer has recommended a one-time transfer to CFGB in the sum of Two Million Dollars (\$2,000,000.00) for use under the terms of the Advised Fund to further the public health work in Jefferson County, Alabama, so,

NOW THEREFORE, BE IT RESOLVED, that the Jefferson County Board of Health approves amending the Fiscal Year 2018 budget to include an appropriate item setting aside Two Million Dollars (\$2,000,000.00) of Health Department funds, above the earnings from the PHCP Fund, for the Public Health Advised Fund, and authorizes and requests the Health Officer, Mark E. Wilson, M.D., to take necessary action to transfer to the Community Foundation of Greater Birmingham the sum of Two Million Dollars for the Jefferson County Public Health Fund of The Community Foundation during the 2018 Fiscal Year.

On-the-Job Injury Trust

Dr. Wilson stated the new resolution below will allow the transfer of \$1 million of JCDH funds to set up a new Trust for on-the-job injury claims. The funds will be taken from the current year's budget. Currently on-the-job injury claims are paid according to the JCDH Policy & Procedure for On-the-Job Injury and Paid Injury Leave Policy out of the General Fund budget. The resolution will designate a special Trust for these types of claims.

On the motion of Dr. Michael, and seconded by Dr. Clayton, the following resolution was approved.

WHEREAS, the Jefferson County Board of Health, and the Health Officer for Jefferson County, exercise public authority and duties set forth in the Alabama Code at section 23-2-1—5, including enforcement of the state and local health laws and regulations throughout Jefferson County, Alabama, including municipalities within the county; and,

WHEREAS, among the statutorily mandated powers of the Health Officer, under the direction of the state Health Officer and the county Board of Health, is the “direction of all sanitary and public health work in the county, and to employ for his assistants subject to the provisions of the appropriate merit system, such number of physicians, nurses, clerks, inspectors, and other employees as are found necessary to accomplish the work” as set forth in Alabama Code section 22-3-4, and which function, in conjunction with the Board of Health and the Health Officer, as the Jefferson County Department of Health; and,

WHEREAS, the Jefferson County Department of Health is deemed a “local agency of the State of Alabama” and as such is protected by sovereign immunity from being sued in court and is exempt from providing coverage under the Alabama Worker’s Compensation Act; and,

WHEREAS, Rule 13.12 of the Rules and Regulations of the Personnel Board provides that any classified employee in the merit system who becomes “unable to perform the essential functions of job, with or without reasonable accommodation, because of an accident or exposure to disease arising out of and in the course of employment in the Classified Service, may be granted up to 180 days of paid injury leave” and also provides that in administering such leave, the Personnel Board and each governing entity or “Appointing Authority” should be guided by the terminology found in the Alabama Worker’s Compensation Act; and,

WHEREAS, the Jefferson County Department of Health has duly adopted an On the Job Injury and Paid Leave Policy that provides payment of medical expenses to employees injured while working on the job similar to medical expenses provided on behalf of workers employed by private employers under the Alabama Worker’s Compensation Act, and paid injury leave benefits pursuant to Rule 13.12 of the Rules and Regulations of the Personnel Board; and,

WHEREAS, the On the Job Injury and Paid Leave Policy serve public purposes including enhancing the ability of the Health Officer to recruit and retain qualified and capable assistants and employees to perform the vital public health work essential to maintaining a healthy community; and,

WHEREAS, the Health Officer has informed the Board that the costs incurred under the On the Job Injury and Paid Injury Leave Policy fluctuate in significant amounts year-to-year so as to render it prudent to create and maintain an On the Job Injury Trust Fund to which funds may be budgeted and the balance of which may accrue interest or investment income to be reserved for future benefits under the Policy; and,

WHEREAS, the Jefferson County Health Officer has recommended negotiating an On the Job Injury Trust Agreement with Regions Bank as Trustee; and,

WHEREAS, the Jefferson County Health Officer has also recommended amending the previously approved budget for Fiscal Year 2018 by including an appropriate item designating and allowing for the transfer and or expenditure of up to One Million Dollars (\$1,000,000.00) of Health Department funds to be set aside and at the appropriate time contributed or deposited to the On the Job Injury Trust Fund once established; and,

WHEREAS, the Jefferson County Board of Health hereby finds that creation of an On the Job Injury Trust Fund, and entering into an On the Job Injury Trust Fund Agreement with Regions Bank, one of the primary providers of banking of financial services to the Jefferson County Board of Health, serves the public purpose of providing financial stability and stewardship of funds designated for use in the On the Job Injury and Paid Injury program, so,

NOW THEREFORE, BE IT RESOLVED that the Jefferson County Board of Health, by a majority vote of its members at a regularly scheduled meeting, does hereby accept the Health Officer's recommendations and approves creation of an On the Job Injury Trust Fund to be used exclusively in support of the On the Job Injury and Paid Injury Leave Policy until such time as the Board votes to terminate such Trust Agreement according to its terms or applicable law; approves entering into an On the Job Injury Trust Fund Agreement with Regions Bank as Trustee including any negotiated changes and any other modifications the Health Officer deems necessary or prudent; approves amending the Fiscal Year 2018 budget by including an appropriate item designating and allowing for the transfer and or expenditure of up to One Million Dollars (\$1,000,000.00) of Health Department funds to be set aside and at the appropriate time contributed or deposited to the On the Job Injury Trust Fund once established; approves making additional scheduled or other deposits into the Trust Fund thereafter as deemed necessary or advisable; and taking such other necessary steps as the Health Officer sees fit to establish, maintain and provide prudent oversight of the On the Job Injury Trust Fund.

This resolution is to be immediately effective upon passage.

Contracts

On the motion of Dr. Michael, and seconded by Dr. Clayton, the following contracts were approved:

A new contract with Clarus Consulting Group (payee) to provide strategic planning for the Birmingham Safe Neighborhoods Task Force (BSNTF) to chart its course over the next 2-3 years. JCDH is a partner of BSNTF to identify ways to reduce violence in Jefferson County. JCDH's 2017-2021 Strategic Plan includes an objective to establish a strategy to address the problem of violence in Jefferson County. The contract amount is not to exceed \$61,000 from July 11, 2018 through July 10, 2019.

Renewal of a contract with Employment Screening Services (payee) to provide background checks for JCDH to include Consumer Reports, Investigative Consumer Reports and Motor Vehicle Reports for an amount not to exceed \$14,999 from July 10, 2018 through July 9, 2019.

A new bid contract with Battle Miller Construction Company (payee) to provide construction services to the JCDH Guy M. Tate building's plaza structural repairs for a rate not to exceed \$349,400 from August 1, 2018 through August 1, 2019.

Renewal of a contract with Wolters Kluwer (payee) for a subscription to Up To Date for JCDH providers. This is a software system that is a point-of-care medical resource. Amount of contract will not exceed \$9,900 from August 1, 2018 through July 31, 2019.

A new contract with Nelbran Glass, LLC (payee) to provide doors and installation at the employee entrance of the Guy M. Tate building for a cost not to exceed \$14,951 from July 13, 2018 through November 13, 2018.

A new contract with Power Secure Services, Inc. (payee) to provide maintenance and repair to the emergency generator at JCDH for a rate not to exceed \$3,865 from April 5, 2018 through April 4, 2019.

A new contract with Classic Printing & Signs (payee) to provide signs and installation for JCDH at a rate not to exceed \$125 from June 1, 2018 through June 30, 2019.

A new contract with MedTurn Inmar, Inc. (payee) to provide pharmaceutical return processing services for JCDH's expired and non-dispensable pharmaceuticals at a rate of 4.8% of anticipated return value for drugs processing from August 1, 2018 through August 1, 2021.

A new contract with Servco, LLC (payee) to provide HVAC/refrigeration services at Guy M. Tate building for a rate not to exceed \$5,625 from July 12, 2018 through August 30, 2018.

A new contract with Daikin Applied (payee) to provide HVAC services to JCDH for a rate not to exceed \$1,345 from August 1, 2018 through August 17, 2018.

Renewal of a contract with Susan G. Komen North Central Alabama® for JCDH to provide parking for race participants in the 27th Annual Susan G. Komen Race for the Cure, with no funds involved, on October 13, 2018.

An amendment to a contract with the Alabama Department of Public Health, Family Health Services, for JCDH to provide family planning services under the Title X Family Planning grant for an increase of \$50,605 in the grant from July 1, 2018 through August 31, 2018.

Credentialing

Dr. Wilson presented the following credentials report: Initial credentialing for Frances Darlene Traffanstedt, M.D., as a Medical Director in Clinical Services. The Board unanimously approved the Credentials Report.

Health Officer Report

Pertussis Outbreak

Dr. Wilson discussed the recent pertussis outbreak that began in Shelby County and spread to Jefferson County through contacts. The JCDH Epidemiology Division of Disease Control has been busy contacting people who may have been exposed. At this point, there have been 11 confirmed cases and over 30 people with pertussis-like symptoms.

Western Health Center

Dr. Wilson reported there was a water main break last week in western Jefferson County that forced Western Health Center to close for two days in the middle of the back-to-school vaccine rush. Staff were relocated and employees worked together to get the vaccinations done and keep

other services going. Food establishments in the affected area either voluntarily closed or Environmental Health sought voluntary closure without issuing orders due to the potential large volume.

Environmental Health Food Regulations

Dr. Wilson gave an update on last month's report that Environmental Health would be revising their Food Establishment Regulations to accommodate dogs in restaurants that have outside patios. JCDH is not allowed to pass any regulations that are less stringent than ADPH's. JCDH has been discussing the possibility of this change with ADPH but at this time they are not willing to make the revision. JCDH will continue to pursue this change.

Health and Human Services

Dr. Wilson announced that Sharon Ricks, Regional Health Administrator, Region 4 of the U.S. Department of Health & Human Services, visited JCDH on August 3, 2018 while she was in Birmingham. Ms. Ricks had asked to meet with JCDH's leadership about our Strategic Plan, Community Health Improvement Plan (CHIP), our community partnerships, and our work around reducing health disparities. The meeting served as a good opportunity to share some of the issues we are facing with the allocations for grant money.

Opioid Listening Session

Dr. Wilson was invited to participate in a listening session for the opioid crisis held by Senator Doug Jones on August 3, 2018. The event was well attended.

Naloxone Distribution

Dr. Wilson shared an update on JCDH's naloxone distribution efforts. Dr. Wilson continues to provide community trainings with the help of Sarah Estopinal, Clinical Nurse Practitioner. Ms. Estopinal is splitting her time between working clinic and community health projects including naloxone training.

Cooper Green

Dr. Wilson shared that he has issued a Standing Order for the Cooper Green Pharmacy to use the JCDH naloxone kits and dispense them, primarily at the Cooper Green Medication Assistance Treatment Clinic and the Recovery Resource Center.


Jefferson County Sheriff's Department

Dr. Wilson is working with the Jefferson County Sheriff's Department to train and equip all of their sheriff deputies with naloxone. Training will begin August 20, 2018.

Brookwood Hospital

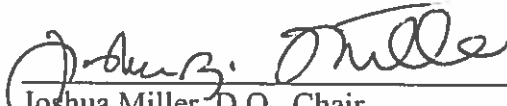
Dr. Wilson reported that the Centers for Medicare and Medicaid Services (CMS) and ADPH are visiting Brookwood Hospital this week related to some patient care issues occurring at the hospital. The hospital is at risk of losing their ability to bill for services for CMS. A determination will be made tomorrow.

The next Board of Health meeting is scheduled for Wednesday, September 12, 2018 at 5:00 p.m. in the Fifth Floor Board Room. There being no further business, the meeting adjourned at 6:00 p.m.



Hernando Carter, M.D., Secretary

Approved:



Joshua Miller, D.O., Chair

Attachments:

- Attachment 1
- Attachment 2
- Attachment 3
- Attachment 4

Attachment 1
Adopted by the Jefferson County
Board of Health on

August 10 20 05
Amiel B. Stearns, MD
Health Officer

Jefferson County Board of Health
August 10, 2005

RESOLUTION

BE IT RESOLVED BY THE JEFFERSON COUNTY BOARD OF HEALTH
that the Board wishes to designate a portion of unrestricted General Fund net assets to
establish a Public Health Community Projects Fund (PHCP Fund).

Earnings of the PHCP Fund will be transferred to the Community Foundation of
Greater Birmingham (Foundation) where an Advised Fund identified as the Jefferson
County Public Health (JCPH) Fund will be established. The Foundation will administer
grants from the JCPH Fund in accordance with Advised Fund Policies. The Health
Officer of Jefferson County will serve as advisor to the Board of Directors of the
Foundation on grants to be made from this Advised Fund.

Adopted by the Jefferson County
Board of Health on

September 14 20 05

Michael S. Keenan, MD

Health Officer

Jefferson County Board of Health
September 14, 2005

RESOLUTION

BE IT RESOLVED BY THE JEFFERSON COUNTY BOARD OF HEALTH
that the Board wishes to amend the fiscal year 2005 budget by \$5,000,000 (five million
dollars) to a total of \$51,666,700. The budget addition will be the portion of unrestricted
General Fund net assets designated as the Public Health Community Projects Fund
(PHCP Fund).

THE COMMUNITY FOUNDATION OF GREATER BIRMINGHAM
Jefferson County Department of Health Advised Field of Interest Fund Agreement
(Gift to CFGB Corporation)

The Jefferson County Department of Health hereby gives to The Community Foundation of Greater Birmingham (hereinafter "The Community Foundation"), an Alabama nonprofit corporation, the following money or property:

Approximately \$100,000

Said gift is to be administered as a component of The Community Foundation in accordance with the purposes and pursuant to the terms of the Articles of Incorporation and Bylaws of The Community Foundation as presently in effect as amended from time to time.

This gift shall be identified as the Jefferson County Public Health Fund of The Community Foundation. Grants from either principal and/or interest may be made to preserve, protect, and enhance the general health and environment in Jefferson County.

In making this gift, we do hereby appoint the Health Officer of Jefferson County, as chair of the Jefferson County Public Health Fund Advisory Committee, to serve as advisor to the Board of Directors of The Community Foundation on grants to be made from this Advised Fund.

We understand that the Board of Directors of The Community Foundation is legally vested with the final responsibility to determine what grants are to be made from this Advised Fund as it seeks to fulfill its primary purpose of meeting the charitable needs of the Greater Birmingham Area.

05/09/06
Date

Michael E. Fleenor, M.D.
Michael E. Fleenor, M.D.
Health Officer
Jefferson County Department of Health

8/14/06
Date

Jeffrey H. Cohn
Jeffrey H. Cohn, M.D.
Chair, Board of Directors
The Community Foundation of Greater Birmingham



2007-047

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

February 13, 2007

TROY KING
ATTORNEY GENERAL

ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, AL 36130
(334) 242-7300
WWW.AGO.STATE.AL.US

Honorable David S. Maxey
General Counsel
Jefferson County Board of Health
Spain & Gillon, L.L.C.
2117 2nd Avenue North
Birmingham, Alabama 35203

Health, County Boards of – Funds –
Agreements – Public Purpose

The Jefferson County Board of Health ("Board") can enter an agreement with the Community Foundation of Greater Birmingham under which, and subject to the required annual budget review and approval process, the Board will provide funds to the Community Foundation of Greater Birmingham for use in public health work projects in Jefferson County if the Board determines that the agreement will further the Board's purposes.

Dear Mr. Maxey:

This opinion of the Attorney General is issued in response to your request on behalf of the Jefferson County Board of Health.

QUESTION

Can the Jefferson County Board of Health lawfully enter an agreement with the Community Foundation of Greater Birmingham under which, and subject to the required annual budget review and approval process, the Jefferson County Board of Health will provide funds to the Community Foundation of Greater Birmingham for use in public health work projects in Jefferson County?

FACTS AND ANALYSIS

Your letter of request asks whether the Jefferson County Board of Health may enter an agreement with the Community Foundation of Greater Birmingham (the "CFGB"), a nonprofit corporation, where the Board will donate funds to the CFGB to fund public health work projects in Jefferson County. Your request states that the CFGB is a private, nonprofit organization that is organized to further public endeavors within the Birmingham area. You state that the Board would like to enter an agreement with the CFGB whereby the Board would provide funds to the CFGB for use in public health work projects in Jefferson County. The CFGB would manage the funds and be advised on selection of grants by the Jefferson County Public Health Fund Advisory Committee, of which the Jefferson County Health Officer would be the chair.

The duties of county boards of health include enforcement of public health laws and general supervision over the public health work of the county. ALA. CODE § 22-3-2 (1997). Section 22-3-3 of the Code specifically provides county boards of health with the authority to "solicit, receive and hold gifts, devises and bequests of money, real estate and other things of value to be used in the support, development and carrying on of their work." *Id.*

Section 93 of the Constitution of Alabama generally prohibits the state from lending money or credit to "any individual, association, or corporation, except as may be expressly authorized by the Constitution of Alabama or amendments thereto." ALA. CONST. art. IV, § 93 (amends. 1, 12, 58). Section 94 of the Constitution is a companion to Section 93, and it prevents political subdivisions of the state from doing the same. The appellate courts of this state, however, have opined the state or a political subdivision thereof may appropriate funds to an individual, association, or corporation when the appropriation is for a "public purpose." *Slawson v. Ala. Forestry Comm'n*, 631 So. 2d 953 (Ala. 1994); *Opinion of the Justices* No. 269, 384 So. 2d 1051 (Ala. 1980).

In *Slawson*, the most recent appellate court decision addressing Sections 93 and 94, the Alabama Supreme Court held as follows:

In *Opinion of the Justices, No. 269, 384 So.2d 1051*, this court was asked whether the appropriation of state funds to nonstate agencies and organizations was for a 'public purpose' and, thus, did not violate §§ 93 and 94 of our

constitution. . . Although, we were unable to give an advisory opinion because the question asked presented a mixed question of law and fact, we did provide guidelines as to what constituted a "public purpose." Quoting *Clifford v. City of Cheyenne*, 487 P.2d 1325, 1329 (Wyo. 1971), we stated that, generally speaking, a public purpose "has for its objective, the promotion of public purpose, safety, morals, security, prosperity, contentment, and the general welfare of the community. . . ."

The paramount test should be whether the expenditure confers a direct public benefit of a reasonably general character, that is to say, to a significant part of the public, as distinguished from a remote and theoretical benefit. The trend among the modern courts is to give the term "public purpose" a broad expansive definition. . . .

[T]he question of whether or not an appropriation was for a public purpose [is] largely within the legislative domain rather than within the domain of the courts. . . .

The legislature has, to a great extent, the right to determine the question and its determination is conclusive when it does not clearly appear to be wrong, assuming that we have a right to differ with them in their finding. . . . Taken on its face, it is our duty to assume that the Legislature acted within constitutional limits and did not make a donation, when such construction is not inconsistent with the recitals of the act.

Slawson, 631 So. 2d at 956.

This Office has previously opined that whether an appropriation serves a public purpose is a decision to be made by the political entity or state agency with the authority to make the appropriation. Opinion to Honorable Kathy E. Sawyer, Commissioner, Department of Mental Health and Mental Retardation, dated July 17, 2002, A.G. No. 2002-285; opinion

Honorable David S. Maxey
Page 4

to Honorable Jimmy C. Lunsford, Mayor, City of Troy, dated February 21, 2003, A.G. No. 2003-081. This Office has also previously suggested that when a political subdivision or state agency enters an agreement with a private entity to expend funds or donate property for a public purpose, the agreement should state the public benefits as consideration. Opinion to Honorable Bobby L. Crowder, Mayor of the City of Valley, dated November 6, 1995, A.G. No. 96-00034; opinion to Honorable Jerry Lacey, Chairman of the Fayette County Commission, dated January 31, 1997, A.G. No. 97-00097.

The CFGB's articles of incorporation state that its purpose is to further public endeavors in the greater Birmingham area. Because public health work of the Board would fall under the "public endeavor" category, this purpose is consistent with the statutory duties provided by the Legislature for the county boards of health. Thus, the Board can enter an agreement with the CFGB under which the Board will provide funds to the CFGB to support public health work projects in Jefferson County if the Board determines that entering such an agreement will further a public purpose.

CONCLUSION

The Jefferson County Board of Health may enter an agreement with the Community Foundation of Greater Birmingham under which, and subject to the required annual budget review and approval process, the Board will provide funds to the Community Foundation of Greater Birmingham for use in public health work projects in Jefferson County if the Board determines that the agreement will further the Board's purposes.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Noel S. Barnes of my staff.

Sincerely,

TROY KING
Attorney General
By:


BRENDA F. SMITH
Chief, Opinions Division

TK/NB
217205/101396