



JEFFERSON COUNTY BOARD OF HEALTH

**Wednesday, April 8, 2015- 5:00 p.m.
5th Floor Board Room**

PRESENT: Steven Kulback, M.D., Jennifer R. Dollar, M.D., Nicole Redmond, M.D., Ph.D., MPH, Max Michael, III, M.D., and Joshua Miller, D.O.

ABSENT: Commissioner Jimmie Stephens

OTHERS

PRESENT: Mark Wilson, M.D., Christine Barber, Simon Bevis, Walter Borden, Dell Brooke, Elizabeth Brooke, Nelson Brooke, Keisha Brown, Kirsten Bryant, Kim Cason, Gayle Cobb, Amber Dixon, Carolyn Dobbs, M.D., Gretchen Frizzell, Edith Griggs, Michael Hansen, Emory Harris, Wanda Heard, Gus Heard-Hughes, Robert Hill, Heather Hogue, Rodney Holmes, Haley Lewis, David Ludder, Judy Madison, Dennis Mallory, Bryn Manzella, Corey Masuca, David Maxey, David Meezan, Wade Merritt, Grady Moore, Harter Nichols, Curtis Null, Cody Owens, Meg Pace, Charlie Powell, Stacie Propst, Ph.D., Jon Reed, Mary Samuels, Elizabeth Sanfelippo, Billy Smith, Wallace Williams, Jr., and Denisa Pridmore

Community Foundation of Greater Birmingham (CFGB) – Public Health Advised Fund (PHAF)

Gus Heard-Hughes, Senior Program Officer with the CFGB, gave a presentation on the Public Health Advised Fund that is held at the CFGB in partnership with JCDH. The PHAF is a means for advancing public health in Jefferson County through a grant making process that awards grants to organizations providing public health work in the county. He highlighted the history of the partnership of JCDH and CFGB. He shared some of the recent small grants that have been awarded from the PHAF that display how a strategic grant can have a greater public health impact on the community.

Call to Order

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

Minutes

Minutes of the March 11, 2015 meeting were approved as distributed.

Financial Statement

Ms. Judy Madison, Chief Accountant, discussed the March 2015 Financial Report.

A motion to accept the financial report was made, seconded and approved.

Contracts

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

A new contract with Employment Screening Services, Inc. (bid) to provide background checks on potential new employees for JCDH consisting of Consumer Report and Investigative Consumer Reports at a fee for service not to exceed \$14,999 from March 25, 2015 through March 24, 2016.

A new contract with Samford University College of Health Sciences Dietetic Internship whereby JCDH will provide support and guidance for the mentoring of dietetic program participants with no funds involved from February 1, 2015 through January 31, 2016.

Renewal of a contract with the Alabama Department of Public Health (payor) for TB Program incentive accounts to be distributed to the Public Health Area TB Managers across the State for encouraging TB patients to take their medications at a cost not to exceed \$110,000 from February 1, 2015 through September 30, 2015.

A new contract with Olivia Rowell, Esq. (payee) to provide legal counsel for the Jefferson County Board of Health at a rate of \$150 per hour from March 27, 2015 through March 26, 2016.

Title V Permit Fees

On the motion of Dr. Kulback, and seconded by Dr. Redmond, the following resolution was approved:

WHEREAS, The Federal Clean Air Act and the Jefferson County Board of Health Air Pollution Control Rules and Regulations require that the Title V operating permit program fees be established to adequately fund the Title V operating permit program's responsibilities; and

WHEREAS, that the Title V permit fees may be used only for the Title V permit program; and

WHEREAS, it is projected that for Fiscal Year 2015, Title V permit fee revenues, based on a fee of \$40.00 per ton will adequately fund the operating **and capital** expenses of the Title V permit program;

NOW, THEREFORE, BE IT RESOLVED, ORDAINED, ORDERED AND ENACTED BY THE JEFFERSON COUNTY BOARD OF HEALTH THAT:

Title V Operating Permit fees will be assessed at the rate of \$40.00 for the release of each ton of regulated pollutant as specified in Chapter 16 of the Jefferson County Board of Health Air Pollution Control Rules and Regulations for calendar year 2014 emissions, which fees will be payable in fiscal year 2015.

West End Health Center (WEHC) Property

Dr. Wilson reminded the Board that WEHC closed when three western area JCDH health centers were consolidated into the new Western Health Center in Midfield. Since there is no longer a need for the property, he proposes the Board return the property to the Jefferson

County Commission, who would like to expand services for Cooper Green Mercy Health Services. The Jefferson County Commission originally donated the property to JCDH and the health center was paid for by both entities.

DISPOSITION OF WEST END HEALTH CENTER PROPERTY

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

WHEREAS, the Jefferson County Board of Health (“JCBH”) desires to convey certain real estate and improvements located on or around 1308 Tuscaloosa Avenue, Birmingham, Alabama upon which has previously been operated the West End Health Center (the “Premises”), to Jefferson County, Alabama (the “County”), a copy of the proposed Real Estate Transfer Agreement to effectuate said transaction is attached hereto as Exhibit “A” (the “Agreement”); and

WHEREAS, the County has a need for the use of the Premises and desires to accept the conveyance of the Premises from JCBH pursuant to the conditions stated herein and in the Agreement; and

WHEREAS, JCBH took title to the Premises from the County by Statutory Warranty Deed dated August 6, 1997 recorded at 9710/5044 in the Probate Office of Jefferson County, Alabama, Birmingham Division; and

WHEREAS, JCBH no longer operates the West End Health Center and, thus, has determined that the Premises and the personal property located therein are surplus property; and

WHEREAS, the County and JCBH will receive mutual benefit by the return of the Premises to the County in that: 1) JCBH will be relieved of the costs associated with maintaining the Premises, and 2) the County intends to provide improved access to health care, and perhaps other public health services, to the citizens of Jefferson County living in the area surrounding the Premises; and

WHEREAS, the parties hereto have jointly further determined that the real estate transfer contemplated by the parties described herein above will promote the public health, safety, education, commerce and general welfare of the citizens of Jefferson County and Alabama; and

NOW THEREFORE, BE IT RESOLVED, that JCBH hereby authorizes its Health Officer, Mark E. Wilson, M.D., to execute the attached Real Estate Transfer Agreement to convey the Premises and any other document referred to therein or that the Health Officer finds necessary to further the purposes set forth therein, in that the County’s stated intention is to use the Premises for purposes consistent with, and that tend to further, the public health purposes, programs, and services of JCBH.

GASP Petition

Dr. Dollar gave a review of the information leading to the GASP Petition. ABC Coke was issued an operating permit renewal in August 2014. GASP submitted a request for a hearing before the Jefferson County Board of Health at the end of August 2014. The request was assigned to Hearing Officer Judge James Hard, IV. Since that time, there have been many

pleadings by all interested parties which include GASP, the Jefferson County Department of Health (JCDH), and ABC Coke. The last two motions from GASP were filed on April 3, 2015. Three motions in response to those motions were filed April 7, 2015 by JCDH and ABC Coke. Dr. Dollar announced that Ms. Olivia Rowell has been advising her on the Board's order of business for tonight's meeting.

Dr. Dollar stated the Board will begin with considering the two motions that were filed April 3, 2015 and then the motions filed on April 7, 2015. The Board discussed the motions listed below. A visitor at the Board of Health meeting interrupted Dr. Dollar several times during these discussions. Dr. Dollar told the visitor this was a Board discussion and permission had not been granted for oral argument. As the disruptions continued during the meeting, a Birmingham police officer asked the visitor to leave the room. Listed below are the actions taken by the Board of Health.

On the motion of Dr. Kulback, the Board members unanimously approved the following Order:

Case No. 2014-003
GASP, Petitioner v.
Jefferson County Department of Health/Air Pollution Control Program, Respondent,
And
ABC Coke, Intervenor

ORDER

This matter having come before the Board on Petitioner's Motion for Oral Argument on its Motion for Recusal of Board Members Who Have Not Read the Entire Record, and the Board having considered the Motion, it is hereby ORDERED that the Motion for Oral Argument on Petitioner's Motion for Recusal of Board Members Who Have Not Read the Entire Record is hereby DENIED.

On the motion of Dr. Kulback, the Board members unanimously approved the following Order:

Case No. 2014-003
GASP, Petitioner v.
Jefferson County Department of Health/Air Pollution Control Program, Respondent,
And
ABC Coke, Intervenor

ORDER

This matter having come before the Board on Petitioner's Motion for Recusal of Board Members Who Have Not Read the Entire Record, and the Board having considered the Motion, it is hereby ORDERED that the Petitioner's Motion is hereby DENIED.

On the motion of Dr. Kulback, the Board members unanimously approved the following Order:

Case No. 2014-003

GASP, Petitioner v.
Jefferson County Department of Health/Air Pollution Control Program, Respondent,
And
ABC Coke, Intervenor

ORDER

This matter having come before the Board on Petitioner's Motion to Board of Health to Disregard Hearing Officer's Proposed Findings of Fact, Conclusions of Law, and Recommendation, and the Board having considered the Motion, it is hereby ORDERED that the Petitioner's Motion is hereby DENIED.

On the motion of Dr. Michael, the Board unanimously approved the following Order:

Case No. 2014-003
GASP, Petitioner v.
Jefferson County Department of Health/Air Pollution Control Program, Respondent,
And
ABC Coke, Intervenor

ORDER

This matter having come before the Board on Petitioner's Motion to Reject Hearing Officer's Proposed Findings of Fact, Conclusions of Law and Recommendation and to Enter Alternative Order, and the Board having considered the arguments presented, it is hereby ORDERED that the Motion to Reject Hearing Officer's Proposed Findings of Fact, Conclusions of Law and Recommendation and to Enter Alternative Order be denied.

Dr. Dollar stated the last motion for the Board's consideration is to grant the motion for a hearing or to dismiss the motion for a hearing. She reminded the Board the renewal permit was approved for ABC Coke on August 11, 2014, the motion for a hearing was filed on August 26, 2014, and a Hearing Officer was assigned. All of this information has come through the Hearing Officer, whose recommendation to dismiss the motion for a hearing was received by the Board on March 19, 2015. She stated the Board of Health must decide whether to dismiss or grant the request for a hearing.

The Board discussed the recommendations made by the Hearing Officer, Judge Hard. On the motion of Dr. Kulback, the Board unanimously approved the following order:

Case No. 2014-003
GASP, Petitioner v.
Jefferson County Department of Health/Air Pollution Control Program, Respondent,
And
ABC Coke, Intervenor

ORDER

This matter having come before the Board on Respondent's and Intervenor's Motions to Dismiss, and the Board having considered the Motions, the Petitioner's response, the

Hearing Officer's Findings of Fact, Conclusions of Law, and Recommendation, and all related filings, it is hereby ORDERED that the Motions to Dismiss be granted, and it is further ORDERED that the Hearing Officer's Findings of Fact, Conclusions of Law, and Recommendation is adopted by the Board in its entirety as the Board's Final Order in this matter.

Health Officer Report

Public Health Week

Dr. Wilson reported that employees at JCDH have been celebrating Public Health Week with a series of open houses at the health centers. This has been a positive experience for the community to see the services provided by the Department. Dr. Wilson shared a "State of Health in Jefferson County" address on Monday.

Public Health Accreditation Board (PHAB) Site Visit

Dr. Wilson noted that the PHAB site visit is scheduled for August 4-5, 2015. A meeting will be scheduled with the Board of Health at some point during this visit. A "Save the Date" will be sent to the Board.

Legislative Update

Dr. Wilson stated currently there are two tobacco tax bills in the legislative session that address increasing tobacco taxes. Another public health related bill has been introduced by Representative Juandalynn Givan. The bill would make it a felony to knowingly transmit a sexually transmitted disease (STD) to another person. ADPH is opposing this bill due to concerns that people will not get tested for STDs and make it harder to control disease.

Dr. Wilson noted HB208 related to Naloxone and Good Samaritan is still waiting to go to the House Health Committee. He met with the head of the committee, Representative April Weaver, last week.

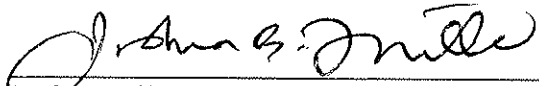
Alabama Health Care Improvement Task Force

Dr. Wilson discussed the new Alabama Health Care Improvement Task Force that was recently formed by Governor Robert Bentley. Dr. Max Michael is one of the members of the group who will be looking at ways to increase access to affordable health care. Dr. Michael said Dr. Don Williamson, who chairs the task force, has requested two to three priorities from each member. He asked the Board to send their recommendations to him.

Public Health Week Event at UAB

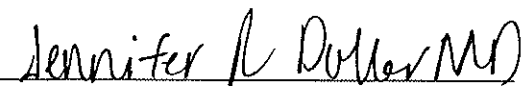
Dr. Max Michael invited the Board members to attend the one-woman play "Determination, Drama, and Daring: The Life of Louise Wooster" on April 9, 2015 at 5:30 p.m. at Vulcan Park. The Lou Wooster Public Health Hero Award is presented annually to recognize individuals, groups or organizations who are unconventional public health hero. Tomorrow evening the award will be presented to Angelou Ezeilo, CEO and Founder of the Greening Youth Foundation in Atlanta.

The next Board of Health meeting is scheduled for Wednesday, May 13, 2015 at 5:00 p.m. in the Fifth Floor Board Room. There being no further business, the meeting adjourned at 5:55 p.m.



Joshua Miller, D.O., Secretary

Approved:



Jennifer R. Dollar, M.D., Chair

Attachment: Exhibit A

DRAFT
REAL ESTATE TRANSFER AGREEMENT

This Real Estate Transfer Agreement (this "Agreement") is made on _____, 2015, by the Jefferson County Board of Health (the "Grantor") and by Jefferson County, Alabama (the "Grantee").

WHEREAS, the Grantee desires to obtain from the Grantor a parcel of land (the "Property") situated, lying and being in the County of Jefferson, State of Alabama, and being more particularly described in Exhibit "A" attached hereto and incorporated herein by referenced, upon which has previously been operated the West End Health Center (the "Facility"); and

WHEREAS, in return for the Grantee assuming title and responsibility for all maintenance of the Facility, the Grantor desires to convey the Property to the Grantee.

NOW, THEREFORE, in consideration of the mutual and reciprocal promises set forth herein, the Grantor and the Grantee contract and agree with each other as follows:

Section 1. Property to be Transferred. The Grantor agrees to grant and convey to the Grantee the Property together with all rights, easements and appurtenances thereto. At closing, the Grantor shall deliver to the Grantee a statutory warranty deed, duly executed in proper form for recording so as to convey to the Grantee title to the Property.

Section 2. Consideration. In consideration of the transfer of the Property to the Grantee, the Grantee agrees to continue to use the Property for the purpose of improving access to health care, and perhaps other public health services, to people living in the area. The Grantee shall take possession on the date of closing.

Section 3. Title. The Grantor shall convey title to the Property to the Grantee, by Statutory Warranty Deed, free and clear of all monetary liens and encumbrances permitted or caused by Grantor. Grantee shall take title to the Property subject to utility easements and agreements with utility companies of record; zoning ordinances; taxes and assessments not delinquent; and such other easements, conditions or restrictions of record. The parties hereto acknowledge and agree that the Grantor took title to the Facility in 1997 from Grantee by Statutory Warranty Deed recorded at 9710/5044.

Section 4. Bill of Sale. At the Closing, Grantor shall deliver unto Grantee, a Bill of Sale transferring title to the equipment, supplies, fixtures and other personal property, that is owned by the Grantor and is part of or used in connection with the operation of the Facility. The Bill of Sale shall be without warranty or representation of any kind and the personalty conveyed therein shall be conveyed "AS IS" with all faults.

Section 5. Special Assessments. Taxes, water assessments, and other general and special assessments of whatsoever nature, whether a lien or not, assessed or to be assessed for

the year in which a transaction is finally consummated shall be prorated between the parties as of the closing date of the transaction. If such terms are not ascertainable at the time of the closing, the amount of the prior years will be used as a basis of proration.

Section 6. **Time of Essence.** Time is of the essence of this Agreement.

Section 7. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

Section 8. **Encumbrances.** The Grantor agrees that it shall not and will not, within the period of this contract, sell, convey, mortgage, or otherwise encumber the Property, or any part thereof, or do any act or deed to diminish or encumber the title to the Property.

Section 9. **Remedies.** If the Grantor fails or refuses to perform its obligations hereunder, the Grantee may either: (a) rescind the contract and recover all amounts paid by the Grantee hereunder, and all expenses paid or incurred by the Grantee; or (b) pursue any remedy available to the Grantee, in law or equity, including an action to compel specific performance of this Agreement, or one for damages for breach, separately or alternatively. Provided, however, that any suit for damages against JCBH pursuant to this Section 9 shall be limited to a recovery of no greater than one-thousand dollars (\$1,000.00).

Section 10. **Closing Date.** The transaction shall be closed on or before _____, 2015, or at such other times as the parties may mutually agree, at the offices of Spain & Gillon, L.L.C. in Birmingham, Alabama, or at such other location as is mutually agreeable to the parties herein and upon written notice.

Section 11. **Assignment.** This Agreement may not be assigned by Grantee without the prior written consent of Grantor, which shall not be unreasonably withheld.

Section 12. **Counterparts.** This Agreement may be executed in any number of counterparts, all of which when so executed and delivered shall constitute but one and the same instrument, and each of such counterparts shall, for all purposes, be deemed to be an original.

Section 13. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes any prior written or oral agreements between the parties with respect to the same. Neither this Agreement nor any provision hereof may be changed, amended, modified, waived or discharged orally by course of dealing, but only by an instrument in writing signed by the party against which enforcement of the change, amendment, modification, waiver or discharge is sought.

Section 14. **Costs.** The Grantee shall be responsible for payment of any owner's title insurance policy premium, the attorney's fees of Grantee, any recording fees, and all normal closing costs normally attributable to a Purchaser. The Grantor shall be responsible for payment of its attorney's fees and any other normal closing costs normally attributable to a Seller.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.

JEFFERSON COUNTY BOARD OF HEALTH

By: _____

Its: _____

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Mark E. Wilson, M.D., whose name as Health Officer of the Jefferson County Board of Health, is signed to the foregoing instrument and who is known to me, acknowledge before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said board.

GIVEN under my hand and seal, this _____ day of _____, 2015.

Notary Public
My Commission Expires: _____

JEFFERSON COUNTY, ALABAMA

By: _____

Its: _____

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that _____, whose name as _____ of Jefferson County, Alabama, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents thereof, he/she, in such capacity and with full authority, executed the same voluntarily for and as the act of Jefferson County, Alabama.

Given under my hand and official seal this _____ day of _____, 2015.

Notary Public
My Commission Expires: _____

EXHIBIT "A"

PROPERTY DESCRIPTION

Lots 1, according to the Survey of Jefferson County's West End Health Center Resurvey, as recorded in Map Book 183, page 34, in the Probate Office of Jefferson County, Alabama, Birmingham Division.

Formerly known as Lots 1, 2, 3, 4, 5, 6, 7, 8, the East ½ of Lot 15, 16, 17, 18A, 20, 21, 22, 23, and 24 of Block 9 of the West End Land and Improvement Company Survey as recorded in Map Book 1, page 38, in the Probate Office of Jefferson County, Alabama, Birmingham Division.