

**Type of meeting: Board of Commissioners Executive Session Meeting  
Minutes**

**Date/Time: Tuesday, August 2, 2011; 3:30 PM**

**Place: Remington Woodhull County Complex, County  
Administration Building, 14 Main Street, Newport, NH  
03773 - 1<sup>st</sup> Floor Jury Assembly Room**

**Attendees:** Commissioners Bennie Nelson - Chair and Jeffrey Barrette - Vice Chair; Greg Chanis - County Administrator; Representatives Spec Bowers and Steve Cunningham and Sharon Callum - Administrative Assistant/Minute Taker.

**3:30 Motion: to go into Executive Session per RSA 91-A:3.II.d - Discussion Regarding County Building Lease. Made by: Barrette. Seconded by: Nelson. Roll call vote: All in favor. Those in Executive Session included: the two Commissioners, County Administrator, Representatives Bower and Cunningham, and the minute taker.**

Mr. Chanis briefed the representatives on previous discussions regarding West Central Behavioral Health Services proposal to lease County space in the Sullivan County Health Care facility, Sanders wing, 2<sup>nd</sup> floor, area vacated by the previous Transitional Housing Unit. Since the last meeting, Chanis, Ted Purdy and John Cressy met, discussed how they may be able to relocate the nursing home beauty parlor, storage and a couple of other offices that are located in that area, to other areas within the building - doing so, would open 8,800 sq. ft of space, they were able to find places for these offices. Chanis will be meeting with WCBHS in next couple days to review space with another WCBHS representative. They'll convene an EFC meeting next Monday. Chanis noted the wing was built in 1933, had electrical upgrades in the '80s, but needs a significant face lift - he briefed the representatives on upgrades discussed at a previous meeting, approximate renovation costs as well as rental income. Chanis noted, with this type of lease, they could get the renovation done now, and, essentially, pay for it, by lease income, over the next five (5) years. Nelson added that the County is paying to heat the 'underutilized space'. Chanis noted if the space is remodeled for assisted living, a large remodeling would be required to bring up to code, and it would cost a lot more, vs. using for office space. Chanis noted he met with County Attorney Hathaway, last week, to discuss the proposal, but it's too early to tell about tax/code ramifications. Nelson pointed out it would change from governmental use. Chanis noted, they'd go to the town to advise of project, should the interpretation of the regulations dictate such; he's unsure on taxation change - which would also include leasing with nonprofits. Chanis distributed a copy of a draft lease to the Board - document did not include dollar amount or names. Chanis noted, if approved, they could pay for the renovations - both options require supplemental appropriation, two ways:

- 1) out of Fund balance, or
- 2) float a bond - he recommends a 10 year bond - NH Municipal Bond Bank sells bonds twice a year, there last sale showed bond interest rates at 2%. He

**County of Sullivan, NH**

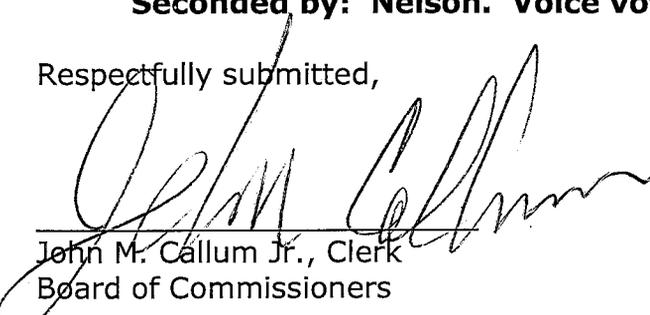
confirmed these were not callable prepay bonds. He also confirmed they could go through other financial institutes.

Chanis noted, the minimum lease agreement illustrates five years, but feels they could be convinced to go ten years. Greg confirmed we could also go through/19/2011h banks for loan.

Representative Bowers noted, this is a 'Win win situation'.

**3:52 Motion: to come out of Executive Session. Made by: Barrette.  
Seconded by: Nelson. Voice vote: All in favor.**

Respectfully submitted,



John M. Callum Jr., Clerk  
Board of Commissioners

JC/s.j.c.

Date approved: Tuesday, August 16<sup>th</sup>, 2011 and kept sealed until issue resolved.

Minutes released 3/16/12 sc

LEASE

AGREEMENT entered into this 18<sup>th</sup> day of MAY 2005 by and between [REDACTED] (hereinafter referred to as "Landlord") and [REDACTED] (hereinafter referred to as "Tenant").

1. **Lease/Description of Premises.** In consideration of the rents, covenants and agreements to be paid and performed on the part of the Tenant, the Landlord hereby leases to the Tenant a portion of the property at [REDACTED] (hereinafter referred to as "Property"), said portion being as the upper level and the street level (hereinafter referred to as "Premises"), consisting of approximately [REDACTED] square feet of office space, and more particularly described on the sketch attached hereto as Exhibit A. Landlord hereby also grants to Tenant reasonable rights of ingress and egress to and from the leased Premises, use of any appropriate common areas.

2. **Term.** The initial term of this lease shall be for five (5) years and shall commence on the date upon receipt of a Certificate of Occupancy by the [REDACTED]. The date shall also be known as the "Rent Commencement Date". If Rent Commencement of this Lease commences on any day of the month other than the first day, rent from such date to the end of such month shall be pro-rated according to the number of days in such month and paid on a per diem basis, in advance, on the date the Rent commences. The parties hereto agree that when the date of Rent Commencement is determined, they will execute, prior to occupancy, an Estoppel Certificate, attached hereto as Exhibit C, certifying said date. No matter the date of Rent Commencement, the initial term of this Lease shall be a complete five (5) year term.

3. **Rent.**

A. **Base Rent.** During the initial term, Tenant agrees to pay monthly rent commencing on the Rent Commencement Date, as follows:

Period	Annual Base Rent	Monthly Base Rent
First Full Year	[REDACTED]	[REDACTED]
Full Years 2 - 5	[REDACTED]	[REDACTED]

[REDACTED]  
Landlord

Tenant

B. Additional Rent/Operating Costs.

- I. Tenant agrees to pay in addition to the base rent its proportionate share of all of Landlord's operating costs and expenses (defined in subparagraph B.III) associated with the ownership, management, maintenance and repair of the Tenant's Premises, which shall be [REDACTED] per month for the period from Rent Commencement Date to December 31, 2005 and then adjusted yearly in accordance with subparagraph II (see Exhibit B - "Initial Budget for 2005"). Tenant's proportionate share is equal to 47.77% which equals the number of square feet Tenant shall occupy divided by [REDACTED] square feet, which the parties agree to be the total leaseable square footage of the Property.
- II. Landlord shall furnish to Tenant prior to December 31 of each year a budget setting forth Landlord's estimate of operating expenses for the next calendar year. Tenant shall pay to Landlord, on the first day of each month as additional rent, an amount equal to one-twelfth (1/12<sup>th</sup>) of Tenant's proportionate share of Landlord's estimate of the annual operating expenses. If, however, Landlord shall fail to furnish such estimate, then until the first day of the month following the month in which such estimate is furnished to Tenant, Tenant shall pay to Landlord, on the first day of each month, an amount equal to the additional rent payable for the previous 12 month period. On or before February 1 for each year this lease is in effect, Landlord shall provide Tenant with a summary of the prior year's operating expenses. Landlord shall refund any overpayment or Tenant shall pay any deficiency, as the case may be, within 10 days of receipt of such operating statement. If this lease terminates prior to the end of any calendar year, the additional rent payable hereunder shall be prorated to correspond to that portion of the calendar year occurring within the term of this lease.
- III. Operating costs and expenses shall include Landlord's reasonable legal, accounting and professional fees (not associated with the enforcement or negotiation of any third party leases), Property taxes, fuel, Property insurance, utilities, water and sewer charges, Property management fees, maintenance and repairs, rubbish and snow removal, and other similar or related items directly associated with Premises. The intention of this paragraph is to make this a net lease to Landlord, excepting only Landlord's interest expense and capital repairs and replacements. Capital repairs and replacements shall be determined based on generally accepted accounting principles. All expenses shall be reasonable and bona fide.

[REDACTED]

Landlord

Tenant

- C. Late Payment. Any payment of rent or additional rent received by Landlord more than 15 days after its due date shall be subject to a late charge of 10% of the overdue amount.
4. Renewal Term. Tenant shall have one five-year option to renew, designated herein as the "First Renewal Term." The renewal term shall be for a period of five (5) years commencing five years after the Initial Year Rent Commencement Date. The initial term of this lease shall be automatically extended for each renewal term unless Tenant shall have given Landlord written notice of the Tenant's election to terminate this lease on or before one hundred eighty (180) days prior to the expiration of the initial term hereof.
5. Rent During Renewal Term. Unless Tenant elects not to extend this lease for the Renewal Term, the rent during each year of the renewal term, shall be determined by multiplying the prior year annual Base Rent by a fraction representing the increase in the Consumer Price Index - Urban (Boston) published by the United States Department of Labor (hereinafter "CPI-U").
6. Utilities and Services. Landlord agrees to install and/or maintain adequate heating, sewer and water, electrical, air conditioning, and plumbing systems to serve the leased Premises. Tenant shall bear the expense of all utilities, which are separately metered for the Tenant's Premises or as provided as a proportional share of same. Tenant shall bare full responsibility, at their expense, for any telecom systems or network.
7. Use of Premises. Tenant agrees that its use of the leased Premises shall be for the operation of a professional office use. Tenant shall not change its use of the Property without the prior written consent of the Landlord, which consent shall not be unreasonably withheld.

Tenant shall not do or permit anything to be done in or about the Premises nor keep or bring anything therein which will obstruct or in any way interfere with the rights of adjoining Tenants or abutters or injure or annoy such abutters or Tenants or use or allow the Premises to be used for any improper, immoral, unlawful, or objectionable purposes, nor shall Tenant cause, maintain, or permit any nuisance in, on, or about the Premises. Tenant shall not damage or deface or otherwise commit or suffer to be committed any waste in or upon the Premises or permit the same to be used in a manner that would impair the structural strength or endanger any building or part of the leased Premises.

8. Termination/Security Deposit. At the end of the term of this lease, Tenant shall quit the Premises reasonably and shall make recompense to Landlord for any damage to the Premises occasioned by Tenant's use thereof; provided, however, that Tenant shall not be responsible for reasonable wear and tear. Tenant has inspected the Premises with Landlord before signing this lease. At the end of the term of this lease, Tenant and Landlord shall re-inspect the Premises. Tenant shall deposit with Landlord the sum of [REDACTED] security for the fulfillment of the obligations of Tenant under this lease. Said deposit shall be returned to Tenant at the time Tenant quits the Premises, provided,

Landlord

Tenant

that Tenant has fulfilled all of its obligations hereunder. In no event shall Tenant be entitled to apply any of the amounts deposited hereunder towards Tenant's rental obligation.

9. **Renovations/Fixtures and Improvements.** Landlord has agreed to make the improvements and renovations at its cost and expense as set forth on Exhibit D attached hereto and incorporated herein by reference.

With the Landlord's consent, which consent shall not be unreasonably withheld, Tenant may make such additional alterations, renovations, and improvements as will, in its judgement, adapt the leased Premises for the purpose of its business. Except as expressly set forth herein, all improvements, renovations, and alterations of the leased Premises and the buildings shall become the Property of the Landlord when made or at the option of the Landlord. Landlord may request that Tenant removal all Tenant improvements at the end of the term of this Lease.

10. **Repair and Maintenance.** Landlord shall be responsible to organizing the maintenance and repair of the common areas, roof, and all structural or capital repairs. Tenant shall bear their proportional expense of all other repairs or maintenance on or within the leased Premises including repairs to its leasehold improvements and building systems. Tenant shall also be responsible for any repair necessitated by Tenant's negligence or the negligence of Tenant's employees, guests, agents, or invitees.

11. **Signs.** No signs shall be erected on the exterior of the building without the prior written consent of the Landlord, which consent shall not be unreasonably withheld. Tenant shall indemnify and save harmless the Landlord from any loss, cost, or expense, including expenses of litigation resulting from such signs. The Tenant's obligations under this paragraph shall survive the expiration or other termination of this lease. Tenant shall be responsible for any permit or other approval required by the Lebanon zoning or other municipal ordinance.

12. **Liability Insurance.** Tenant shall carry public liability insurance with limits not less than \$1,000,000 combined single limit and shall name Landlord as an additional insured. Tenant shall furnish evidence thereof upon request. (Tenant shall be solely responsible for the purchase of insurance, if any, upon its tangible personal Property located on the leased Premises against loss by fire and such other casualties as are covered by the Standard new Hampshire Fire Insurance Policy with Extended Coverage.) Insofar as is permitted under their respective policies of insurance under standard waiver of subrogation clauses, the Landlord and Tenant waive all rights against each other respectfully for damages caused by fire and other perils which are covered by insurance, to the extent of such coverage.

13. **Quiet Enjoyment/Warranty to Title.** Upon complying with the terms of this lease, the Tenant shall and may peaceably and quietly have, hold, and enjoy the leased Premises for

Landlord

Tenant

the term of this lease. Landlord and Tenant warrant that they have full right and lawful authority to enter into this lease for the full term thereof.

14. **Entry by Landlord.** Upon reasonable advance notice to Tenant, the Landlord may enter the leased Premises during normal business hours for the purpose of maintaining and making repairs to the leased Premises or to the building, provided that such repairs do not unreasonably interfere with the Tenant's use of the leased Premises, for the purpose of observing whether the Tenant is complying with the terms, conditions, and provisions of this lease, and for any other reasonable purpose. Such entry may be made without notice or during other than normal business hours only in case of emergency and Landlord shall forthwith notify Tenant of any such entry.
15. **Liens.** Tenant shall keep the leased Premises free and clear from all mechanics' and materialmen and other liens for work or labor done, services performed, materials, appliances, power contributed, used or furnished, or to be used in or about the Premises for or in connection with any operations of Tenant, or any alteration, improvement, repairs, or any work or construction by, for, or permitted by Tenant on or about the leased Premises.
16. **Subletting and Assigning.** Tenant shall not lease, sublease, underlet, or assign the leased Premises or any part thereof; assign or transfer this lease; or permit any other person, firm, or corporation to occupy the leased Premises or any part thereof without the written consent of the Landlord, which consent shall not be unreasonably held. Any assignment, which includes an increase in the rent payable by the Assignee, may be approved but the increase shall be divided equally between Landlord and Tenant.
17. **Non-Disturbance/Attornment.** Omitted intentionally.
18. **Estoppel Certificate.**
  - A. Within 20 days after request therefore, either party shall deliver an Estoppel Certificate in the form of Exhibit C to the other party.
  - B. An Estoppel Certificate shall set forth the statements in Subsection C to the best of the knowledge of the party certifying.
  - C. An Estoppel Certificate shall contain the following statements.
    - I. That this lease has not been supplemented or amended, or if it shall have been supplemented or amended, specifying the manner in which it had been supplemented or amended.
    - II. That this lease is in full force and effect, or, if it be alleged that this lease is not in full force and effect, specifying the reason therefore.

Landlord

Tenant

- III. The date to which the basic rent and additional rent have been paid, as well as the date on which Rent Commencement to be paid and when the Lease shall expire.
  - IV. That there exists no condition that constitutes a default, breach, or violation of this lease, or if such condition exists, specifying the nature thereof.
  - V. Any other additional information required by Landlord's lender regarding this Lease.
- D. Any such certificate may be relied upon by the party requesting it or any other person to whom it may be exhibited or delivered.
- E. If any party fails to comply with Subsection A after receiving a proposed Estoppel Certificate as attached Exhibit C containing proposed statements as required by Subsection C and D, the proposed statements shall be deemed to be conclusively correct.
19. **Fire or Other Casualty.** If any part of the building suffers substantial damage by fire or other casualty (that is, damage resulting in loss in excess of 25% of the value of the Property) so that the leased Premises becomes untenable, and the Landlord in the exercise of reasonable judgement determines that it is uneconomical to restore or repair the same, either party may terminate this lease by giving notice to the other in writing.
20. **Condemnation.** If all or a substantial part of the Premises are taken by condemnation or other process of law by the United States of America, the State, or a political subdivision or agency thereof, this lease and the Tenant's obligation to pay rent shall terminate as of the day following the date of taking without notice or other act of either party, and the Landlord shall return any rent paid beyond the day following the date of such taking. All damages awarded in connection with such a taking shall be awarded to the Landlord.
21. **Holding Over.** If the Tenant shall hold over after the expiration of the term hereof or any renewal or extension thereof, such holding over shall not be deemed to be a renewal of this lease, but the Tenant shall be deemed a tenant-at-will and shall be responsible for the payment of 1¼ times the base rent for the immediately preceding month plus the additional rent and all other charges on a pro rata basis for the period of actual occupancy beyond the term of the lease.
22. **Default.**
- A. **Default/Remedies.** If Tenant fails to pay rent, additional rent, or any other amount due under the lease within fifteen (15) days of its due date or fails to occupy or use the Premises as set forth in Paragraph 7, or is in breach of any other term or condition of this lease and fails to cure such breach within fifteen (15)

Landlord

Tenant

days of its receipt of written notice thereof (or such additional time as may be reasonable or necessary to cure such breach), Landlord shall, at its option, be entitled to: a) recover possession of the Premises in accordance with Chapter 540 of the New Hampshire Revised Statutes Annotated, or b) enter upon the leased Premises and repossess the same and expel the Tenant and those claiming under Tenant and remove the effects of either or both (forcibly, if necessary) without being deemed guilty of any manner of trespass. Upon Landlord being restored to possession of the Premises pursuant to RSA 540 or otherwise, Landlord may re-let the Premises on Tenant's behalf without prejudice to any other rights that Landlord may have.

B. Waiver. Waiver of one default under the provisions of this paragraph shall not constitute a waiver of any subsequent defaults hereunder.

C. Attorney's Fees. In the event legal action is required to enforce any provision of this lease, the prevailing party shall be entitled to an award of its costs and expenses, including reasonable attorney's fees.

23. Indemnity. Landlord shall not be liable to Tenant or to Tenant's agents, servants, employees, customers, invitees, or any other person(s) for any damage to person or Property caused by an act, omission or neglect of Tenant, its agents, servants, or employees, and Tenant agrees to indemnify and hold Landlord harmless from all liability and claims for any such damage.

24. Lease Binding on Heirs, Etc. All of the obligations, conditions, and undertakings herein contained shall extend to and be binding upon the legal representatives, executors, administrators, successors, and assigns of the parties hereto.

25. Notice. Any notice provided for by this lease shall be deemed Property served on the party to whom it is to be given if same is personally delivered to such party or sent to such party by certified mail, addressed as follows:

Landlord:

[REDACTED]

Tenant:

[REDACTED]

[REDACTED]

Landlord

Tenant

[REDACTED]

26. **Brokerage:** It is acknowledged between Landlord and Tenant that McLaughry Commercial, Broker, represents the interest of the Landlord, and that any associated leasing fee to Broker will be paid by Landlord.
27. **Entire Agreement.** This instrument contains the entire agreement between the parties and is subject to no understandings, conditions, or representations other than those expressly stated herein.
28. **Notice of Lease.** Omitted Intentionally

EXECUTED the day and year as noted below.

[Redacted signature]

[Redacted date]  
Date

[Redacted signature]

[Redacted date]  
Date

[Redacted signature]

Landlord [Redacted]  
Tenant [Redacted]