

Scioto County Board of DD Finance Committee Meeting Minutes for September 24, 2013

STAR, Inc., 5:00 PM

1. **Roll Call:** Present were Committee Members J. Michael Thoroughman (Chair), Klaire Purtee, and Substitute Committee Member Richard L. Bolin, Superintendent James Krumer, Director of Finance Matt Purcell, Director of Adult Services/STAR, Inc. Kelly Hunter, STAR Board President Kathryn Locke and STAR Board Member Mike Arnett. Finance Committee Member and SCBDD Board President Rodney H. Barnett arrived at 5:12 PM.

2. **Discussion: Privatization**

A purpose of this meeting was to bring members of the STAR, Inc. Board of Trustees into the discussion that the Finance Committee introduced on August 1, 2013, and commenced August 29. The minutes of that second Committee meeting were distributed.

SCBDD Superintendent Krumer gave a brief synopsis of the 8/29/2013 Finance Committee meeting, noting that the discussion had so far concentrated on aspects of two scenarios for the future of STAR, Inc. The first is to go back to having all SCBDD Adult Day Services (ADS) provided by employees of the County Board. SCBDD Director of Finance, Matt Purcell, presented estimated costs associated with that option.

A second option the Committee discussed was to have STAR, Inc. become completely privatized. Kelly Hunter, STAR, Inc. Director and SCBDD ADS Director gave the Committee a list of points to consider regarding this model. Continuing, but modifying, our current model of subcontracting is a third possibility that has not yet been mentioned.

The 8/29 meeting ended with consensus on three items. First, it was clear that there were many variables and a lot of things to consider. Second, the Committee agreed that not all the people who needed to be there were at the table. And third, that it was going to take time to develop a workable plan.

Another purpose tonight's meeting was to ask for immediate guidance from both the DD and STAR Boards regarding steps management should take the while the plan is being developed. Currently at issue are: two County Board ISF positions which, based on past practice, would automatically become STAR, Inc. positions when vacated, and a County Board Person-Centered Planner that the SCBDD would like to move from its table of organization to STAR's.

Mr. Thoroughman noted that, in a formal action, the County Board approved this policy of transitioning ISF positions to STAR through attrition, as a method of gradual privatization a couple of years ago (July 21, 2011).

Mr. Hunter stated that he did not see this as a County Board policy, but rather as an agreement that he, representing the County Board, has with a vendor, which is STAR. This change has not been incorporated into the written agreement between STAR and the County Board.

Mr. Hunter then steered conversation to funding by saying that cash flow has been a problem for STAR over the past 12 to 18 months and that taking on an additional three

staff members with an approximate cost of \$100,000, was a risk for the entity, though not a large one. He proposed an agreement be reached, to begin as soon as possible, wherein the Board would pay for services not yet rendered and the costs would be reconciled periodically to correct over or under payment. He compared it to the block grants commonly used in between government entities.

Mr. Purcell and Mr. Krumer explained that because of the way that the County Board's funds are parceled out and attached to budgetary 'line items,' funds may have to be moved from the County Board's 'salaries' line item to the 'contract services' line item to accommodate this alternate payment system this calendar year.

To do this, a request must be made to the Scioto County Auditor, who takes the request to the Scioto County Commissioners. If approved there, the request is returned to the Auditor's office and then the funds are transferred. It is not uncommon for transfers like this to be requested as the calendar year draws to a close. However, if the new payment method is approved to commence in January, the SCBDD could incorporate the quarterly disbursements to STAR into the 2014 budget proposal making such transfers unnecessary.

If only the actual cost of these new positions were added to the amount that the County Board pays to STAR, Mr. Hunter said that this was inadequate. Going forward, STAR, Inc. would need to charge the County Board a greater percentage above actual costs in order to become self-sufficient. It would need to build a cash reserve. He went on to suggest a three-month agreement for which STAR would be paid up front for the cost of the three positions under discussion. An annual estimated cost of for these three positions was set at \$101,000. For three months, a fourth of that (\$33,600) would be needed to fund the proposal. The agreement could be revisited before the 2014 budget proposal is finalized.

Mr. Thoroughman countered by suggesting that the Finance Committee consider advancing one quarter of the entire amount anticipated as payment to STAR in 2013. This figure was estimated at around \$330,000. He added that the Finance Committee could make this recommendation to the full Board at the October 17 meeting.

At this point, the discussion turned to the reconciliation process. The ideas proffered ranged from a position that there was no need for reconciliation, to a weekly, monthly or quarterly reckoning. Mr. Krumer reminded everyone that Medicaid requirements would have to be considered and that as the County Board is the provider of record, our agreement with STAR would need to be modified to incorporate these changes. Mr. Purcell explained Medicaid billing is done on a person-by-person, day-by-day basis for each person served. The County Board bills for Medicaid reimbursement based on attendance information that is gleaned from a couple of different databases (CareTracker and Gatekeeper).

STAR also sends the SCBDD Fiscal Office documentation for services such as STAR ISFs, community employment, janitorial work/supplies, and lawn care in 'man-hours,' meaning hours staff worked, which is not billed to Medicaid. Responding to questions by President Locke, Mr. Purcell elaborated, saying that additionally STAR presents a number of bills every two weeks showing how funds were spent on expenses other than County Board ISF salaries. The Board has been paying those, also.

Mr. Hunter reiterated his point that STAR would have to charge more than the actual cost of providing services to effectuate complete privatization. He indicated the need to include this cushion in any future agreements. Mr. Thoroughman remarked that that amount could be negotiated. Mr. Krumer said that a draft agreement for the next three months could be drafted, but any changes to the agreement between STAR and the County Board would have to be approved by both boards.

Mr. Hunter said that with such an agreement in sight, he would recommend filling all three positions immediately, perhaps as soon as next week, specifying October 1. He explained that these vacancies have caused a strain on his workforce over the past three to four months.

Chairman Thoroughman invited comments from those assembled. President Locke, a retired professor, spoke. She emphasized the positive impact that STAR's growth and quality improvement has made over the years for the individuals served, the staff and those who visit the program from Shawnee State University. One weakness the STAR Board has been grappling with for the past 18 months has been the lack of a reliable for income. Such instability threatens services, but what she is hearing at this meeting seems encouraging. She reminded everyone that no one board member could speak on behalf of the STAR Board, but that she and her fellow board member, Mr. Arnett, would take this information back with them to share with the other members. She also expressed her thanks for the opportunity to ask questions and participate in the discussion.

Mr. Thoroughman expressed concern that Ms. Locke had the impression that funding from the SCBDD to STAR was unstable. He noted, and Mr. Hunter concurred, that anytime Mr. Hunter presented a request for additional funds to the SCBDD, the Board had given more funds. Re-tracing the history of the decisions to build in a mark-up, Mr. Krumer had agreed to 32 percent margin beginning January 2013. Former Superintendent Ben Hollinger agreed to a 23 percent mark-up in fall 2011. The current agreement, signed in 2006 by former Superintendent Brenda Benson has a 25 percent 'cost of doing business' fee built in to the amount STAR charges the County Board to provide cleaning services.

STAR Board Member Arnett elaborated on the reasoning behind the feeling of instability that had challenged the STAR Board recently. He attributed it to cash flow problems that seem to have arisen from the low-profit/no-profit model under which the entity had been operating. He noted that changes have been made and the situation has eased.

Mr. Thoroughman polled the Finance Committee members to see if any of them had questions, or if they would be comfortable recommending a three-month agreement as discussed. There were no objections.

Some conversation followed about Ohio Revised Code Section 5126.0221 which makes it illegal for a county board to employ someone who also works for a provider with which it contracts.

To give the STAR Board more background information on a major driver of change in the DD service field, Mr. Krumer explained the impact from the US Supreme Court the decision to uphold the Olmstead v. L. C. lawsuit. The Supreme Court agreed with a lower court that the segregation of people with disabilities is in violation of the Americans

with Disabilities Act, which calls for individuals to be served in their communities. A series of other court cases brought by the US Department of Justice Civil Rights Division applied that decision directly to both residential and employment settings.

In effort to keep the Justice Department from mandating changes in Ohio, Ohio Department of Developmental Disabilities (DoDD) Director John Martin began working to change the system. He began by downsizing Ohio's developmental centers (state run institutions) and the locally or privately operated intermediate care facilities for people with DD (ICF/DDs). Changes in residential settings touched off changes in employment, too, because sheltered employment is also considered segregation and the sub-minimum wages paid to their workers are openly frowned upon.

Ohio launched the Employment First Initiative which has the mind-set that everyone with a disability can and should work in a community-type setting. Through this effort resources are being devoted to creating an improved community employment system offering new approaches and choices. Changes to the adult services rules, which apply primarily to the sheltered workshop model, are still under discussion at the state level.

Mr. Arnett brought the conversation back to ORC 5126.0221. He asked when this became a law, and was told change was effective in 2005. It was part of Senate Bill 10 which made a number of important changes around ethics to laws applicable to county boards. Section 5216.0221 has been modified twice since then, with effective dates in October 2009 and January of this year. He was advised that enforcement of this law might not be a front-burner issue for the state government today, but that could change anytime based on political whim. Though separating STAR from the County Board was talked about by County Board leadership under Superintendents Oakley and Benson, the motion made by the SCBDD in 2011 is the only official step taken to address the situation since county board 'workshop specialists' were moved off of the STAR, Inc. production floor.

Since the US's DD service systems are not governed by federal laws, with the exception of those rules tied to Medicaid funding, every state offers a different array and structure of supports. For Ohio, Mr. Krumer confirmed that efforts around the state to privatize workshop are inconsistent. Each county has its own reasons for going ahead with privatization or resisting it.

De-segregation and privatization are really two separate issues, but both are causing major change to occur. Understanding both is critical to future success. Mr. Krumer shared information from a meeting he attended recently where members of Ohio Association of County Boards Serving People with DD (OACB) gathered to consider and collect feedback to give Director Martin and DoDD about the future of the DD system in Ohio. Mr. Krumer is one of the two representatives from our part of the state serving on the Director's Future System Change committee, which has been charged with re-imagining the DD service system. Mr. Krumer said he would provide copies of this information to Ms. Locke to share with all STAR Trustees.

Mr. Thoroughman alluded to an issue that has arisen in Clermont County where a family has sued the County Board to provide intensively staffed Applied Behavior Analysis (ABA) services to their toddler. With legal decisions going in the family's favor, Clermont DD has had to foot the bill for non-county board staff to deliver 40 hours of treatment weekly. The costs are such that if the parents of every child with the same diagnosis

insisted on these services and the courts deem it an entitlement, county boards would be bankrupted. This threat must be considered seriously by all county boards and their contracted service providers.

At this point, Chairman Thoroughman called for a motion regarding the three-month funding proposal for STAR that the Committee could recommend to the full Board. Mrs. Purtee agreed to make the motion. Mr. Barnett deferred to Mr. Bolin to make the second, stating that he (Mr. Barnett) was only an observer.

Mr. Thoroughman, Mr. Krumer, Mr. Hunter and Mr. Purcell suggested various wording for the motion. Mr. Barnett wanted more specific language and firm figures to be developed before the issue is brought to the full Board and he stated that he felt Mr. Thoroughman should be involved in the development of the proposal, if he (Mr. Thoroughman) was willing. Mr. Barnett explained that he feels board members should be included in the planning that goes on before proposals are presented to a board for consideration. Ms. Locke concurred. In the end, they settled on a motion authorizing County Board employees Jim Krumer, Matt Purcell, and Kelly Hunter, along with Finance Committee Chairman Mike Thoroughman to provide a proposed amendment to the agreement between SCBDD and STAR, Inc. for operational expenses to be paid quarterly through the end of 2013. That proposed amendment would be recommended to the Board by the Finance Committee.

Mr. Thoroughman opened the floor again to the STAR Board members. Ms. Locke again thanked Mr. Thoroughman for this opportunity to meet and have dialog. She added a number of positive comments about the passion both boards have for their work and stressed the need to communicate effectively person-to-person and board-to-board through these times of change. She suggested scheduling an informal meeting of the boards for information sharing and getting to know one another. She noted that formal board meetings not conducive to open conversations and can be confusing, uncomfortable, and create small misunderstandings that become large problems. Added to this are the symptoms associated with grieving that accompany major changes like what STAR is facing in switching service models. This is all complicated by the anxiety that goes along with altering a long-standing relationship like the one between the two entities.

Mr. Barnett, Mr. Bolin, Mr. Thoroughman and Ms. Locke were vocal in their agreement that the boards serve the same people and have the same values. It was noted that the failure of one board would lead to the failure of the other, and that the passion board members have for their roles tends to make issues personal. Mr. Barnett and others endorsed the idea of a social gathering for the members of both boards. Noting that he was not worried it would not be a violation of the Sunshine Laws, he explained that someone would have to prove that public business was conducted at such a gathering. He issued an open invitation for the members of STAR Board to attend meetings of the County Board. He inferred that he would like SCBDD members to have the same freedom to attend the STAR meetings. Ms. Locke said that while she personally endorsed that idea she would have to confer with the other members, based on Mr. Hunter's statement that STAR is not a public entity.

3. Recommendation:

Since a vote was not taken earlier, Mr. Krumer read the motion on the floor, which was to:

***** ACTION ITEM *****

Authorize County Board employees Jim Krumer, Matt Purcell, and Kelly Hunter, along with Finance Committee Chairman Mike Thoroughman to provide a proposed amendment to the agreement between SCBDD and STAR, Inc. for operational expenses to be paid quarterly through the end of 2013. That proposed amendment would be recommended to the Board by the Finance Committee.

The motion carried.

- 4. Adjournment:** Mr. Thoroughman adjourned the meeting by acclamation at 6:47 PM.

Prepared by Margaret Compton from an electronic recording and notes from Jim Krumer.

Submitted by:

Stephanie Childers, Recording Secretary