

**BOARD OF DIRECTORS MEETING
HOSPITAL REDWOODS ROOM
THURSDAY, SEPTEMBER 27, 2018
MINUTES**

The Board of Directors of the Mendocino Coast Health Care District met in CLOSED session at 4:30 pm in the Redwoods Room, Steve Lund, Chair presiding

PRESENT: Mr. Lund, Dr. Glusker, Ms. Bruning, Dr. Miller, Mr. Birdsell
Mr. John Ruprecht, Legal Counsel
Mr. Mike Ellis, CFO

1. CALL TO ORDER:

OPEN Session of the Board of Directors of the Mendocino Coast Health Care District convened at 6:00 p.m. in the Redwoods Room, Steve Lund, Chair presiding

2. ROLL CALL:

PRESENT: Dr. Kevin Miller, Ms. Kitty Bruning, Mr. Tom Birdsell, Mr. Steve Lund, Dr. Peter Glusker
Board Members

BOARD MEMBERS ABSENT: None

ALSO PRESENT:

Mr. John Ruprecht, Legal Counsel
Mr. Mike Ellis, Chief Financial Officer
Ms. Gayl Moon, Executive Assistant

3. CLOSED SESSION MATTERS:

The Board of Directors reviewed the following items in closed session:

1. **INFORMATION/ACTION:** Hardin v. Mendocino Coast District Hospital, U.S. District Court for the Northern District of California, et al., Case No. 3:17-CV-05554, conference with legal counsel. Government Code §54956.9
 - The Board received an update from legal counsel.
2. **INFORMATION/ACTION:** Pursuant to §32155 of the Health and Safety Code August Quality Management and Improvement Council Reports
 - The Board approved the August Quality Management and Improvement Council Report
3. **INFORMATION/ACTION:** Pursuant to California Government Code §54954.5 and §32155 of the Health and Safety Code Medical Staff Credentials and Privileges Review
 - There was no report.
4. **INFORMATION/ACTION:** Contract for new District Legal Counsel, Best Best & Krieger Law, LLP, a Professional Law Corporation. Government Code §54957
 - The Board approved the contract for new District Legal Counsel with Best Best & Krieger
5. Discussion with retiring District Legal Counsel pertaining to completion of pending projects and/or special projects. Government Code §54957
 - The Board agreed to develop a new agreement for Mr. Ruprecht as a consultant on as needed basis as of October 6, 2018.
6. **INFORMATION/ACTION:** Contract with attorney Steven Schnier of the law firm Arent Fox, LLP to serve as special counsel to the Medical Staff/Medical Executive

Committee, as distinguished from the Hospital's general legal counsel, as required pursuant to conflict of interest laws. Government Code §54957

- This item was tabled.

7. **INFORMATION/ACTION:** Pursuant to Government Code §54,957.6: closed session Board Meeting with the District's Labor Union Negotiations, CEO Bob S. Edwards, Jr., CFO Mike Ellis, Special Labor Union and Employment Counsel David Reis, and the District's General Legal Counsel. Government Code §54,957.6.

- The Board received an update from staff and will discuss this matter further when the Board reconvenes Closed Session after Open Session.

8. **INFORMATION/ACTION:** Conference with legal counsel regarding limitation of liability and indemnification provisions in the proposed Meditech contract, which in the opinion of legal counsel, could lead to litigation with Meditech or third parties to the detriment of the Hospital District. Government Code §54956.9

- Discussed liability and indemnification issues with the Meditech Contract.

4. **PUBLIC COMMENTS**

- Several community members made comments regarding MCDH issues.

5. **REVIEW OF THE AGENDA**

- To add the Performance Improvement Plan to the agenda.

MOTION: To add the Performance Improvement Plan to the agenda on an emergency basis

- Birdsell moved
- Bruning second
- Roll call
 - Ayes: Miller, Bruning, Birdsell, Lund
 - Noes: Glusker
 - Absent: None
 - Abstain: None
- Motion carried

- **BOARD COMMENTS**

- Dr. Glusker expressed his disappointment that the agenda did not reflect an item he requested of the rescinding of the board policy last June 30, 2016 'prohibiting any Board Member from interviewing a Hospital employee without prior permission from the CEO or the chair'. He feels that policy should be rescinded. It is bad, and it maybe even be illegal. It was supposed to be on today's agenda. Mr. Edwards called Dr. Glusker and requested that it be removed because he had to be out of town, and Dr. Glusker said yes under the condition that it would be noted as being not here and postponed for a month. It was not listed at all. Dr. Glusker asked that the minutes reflect his objection and disappointment that his request that the policy be rescinded is still pending.

6. **ACTION: APPROVAL OF CONSENT CALENDAR: MR. STEVE LUND, PRESIDENT**

1. Minutes: Regular Session, August 30, 2018
2. Alysoun Huntley Ford Fund Draw – 2 patients for a total of \$1220.89

MOTION: To approve the Consent Calendar

- Bruning moved
- Birdsell second

- Roll call
 - Ayes: Glusker, Lund, Bruning, Miller, Birdsell
 - Noes: None
 - Absent: None
 - Abstain: None
- Motion carried

7. **ACTION/INFORMATION: STRATEGIC PLAN UPDATE: MR. BOB EDWARDS, CEO**

a. Quality/Delivery of Care: Ms. Lynn Finley/Ms. Clara Slaughter

- The Joint Commission is expected at MCDH with the next six (6) weeks to conduct their survey.
 - ✓ Meditech Agreement: Mr. Mike Ellis, CFO
 - The contract was approved at the last Board meeting. This will be discussed later in this meeting.
 - ✓ Facility Score Card: Ms. Nancy Schmid
 - The Facility Score Card was reported to the Board in Closed Session. This will be made public.
 - ✓ PRIME: Ms. Clara Slaughter
 - I am very happy to announce that Michaela Hysten MSN, RN has joined our practice as our new Quality Assurance Performance Improvement Coordinator. We are very excited as she is bringing a wealth of knowledge from various backgrounds including Quality Management, Policy and Procedures, Home Health and Critical Care. Her position is essential to ensure that NCFHC will continue to maintain and improve the quality of care for our community. Currently we are in the process of submitting our PRIME data and my hope is to report those results next month. Our outreach continues at NCFHC to ALL of our primary care patients to ensure that every patient seen by their Primary Care Provider is offered these cancer screenings. We will start measuring the new data in the next few months. Our current data for NCFHC Primary Care Patients that are in the PRIME population as of June 30, 2018 are:
 Br Ca Screening = 74.5% (target = 53%, FY17 Baseline was 48%); Cerv Ca Screening = 66.5% (target = 49%, FY17 Baseline was 36%); Colorectal Ca Screening = 57.31% (target 41%, FY17 Baseline was 40%).
 - ✓ Pain Management Specialist: Mr. Will Lee
 - Dr. Le started working at NCFHC on September 10th and will be leaving on October 25th. He will be leaving for personal reasons, and hopes to return to MCDH next year.
 - Mr. Will Lee has identified another interventional pain specialist who will start on October 29th. There will be no interruption in care for our patients.

b. Financial/Fiscal Solvency: Mr. Mike Ellis, CFO

- In House/RFP Legal Services: Mr. Dan Camp
 - ✓ The Board approved a contract for legal services with Best Best & Krieger (BB&K).
 - ❖ A community member stated that the City of Bell successfully sued the firm of BB & K several years ago. The community member suggested the Board rescind the contract with BB & K.
 - Mr. Ruprecht stated there are two (2) individuals who were with Archer &

Norris which was a firm of nine (9) attorneys who specialized in health care. Archer Norris has filed for bankruptcy. The two attorneys, Noel Caughman and Colin Coffey joined BB&K, just a week ago, after Archer Norris declared bankruptcy, and were not part of BB &K at the time of the law suit. These are the two attorneys that MCDH will be working with, not anyone else at the firm of BB&K. The agreement stipulates that MCDH can discontinue the agreement at any point.

- The Board will look into the BB&K/City of Bell accusations and report publicly at the next regularly scheduled Board Meeting in October.
 - The Board will further discuss this issue when they re-adjourn into Closed Session after Open Session.
- c. Physical Plant/Facilities: Ms. Nancy Schmid
- Seismic: The drilling is complete. They will now test for earthquake equivalent shaking, which will be complete within the next two months.
 - OR HVAC & ATS: On October 12 OSHPD Inspector of Record (IOR) will be on sight at MCDH and the contractor will begin to dig through the roadway to lay lines for HVAC & ATS. This should be completed by March 2019.
 - Emergency Hot Water Tank and Heater: This project has been approved by OSHPD. The Hospital should have the notice to proceed sometime in December.
 - Nurse Call: The papers have been submitted to close Nurse Call. OSHPD sent a letter stating that Nurse Call is officially closed.
 - Telemetry: The final costs are being submitted to OSHPD in the hopes that this will be closed out soon.
- d. People/Physician Nursing and Support Staffing: Mr. Dan Camp
- Union negotiations continue with the next meeting scheduled to take place on October 3rd.
 - The registry is currently at 28, which are down from 41. One reason is that some of the travelers have become permanent staff members.
- e. Community Engagement/Involvement: Mr. Steve Lund, Chair
- Parcel Tax: Mr. Steve Lund, Chair
 - People continue to apply for exemptions. There will not be a deadline for the first year.
- f. Governance: Mr. Steve Lund
- The League of Women Voters has set up a Forum for Board Candidates, to occur October 1, 2018.
 - Mr. Lund would like the new Board to participate in the Masters of Governance Program which is offered by the California Hospital Association; the Board has to meet certain expectations in terms of Board development, understanding, etc. to achieve certification at that level.
8. **ACTION/INFORMATION: DISCONTINUE NUCLEAR MEDICINE SERVICE: MR. MIKE ELLIS, CFO**
- Last month the discontinuation of Nuclear Medicine was discussed during the Planning Committee Meeting and the Finance Committee Meeting. It was discussed again this month with Dr. Kirkman & Dr. Perry both speaking in favor of keeping it up and running.
 - The general consensus from both the Planning and Finance Committees was to continue the services until the end of December. A traveler is currently in the tech position until their

contract expires in December, while simultaneously developing an outreach plan that would better inform providers in the area and encourage them to utilize not only the Nuclear Med Services, but the services available in the Diagnostic Imaging Center.

- Staff will report to Finance, Planning and the Board regarding utilization, what has been done with the outreach effort, the financial impact, etc.

MOTION: To table until December

- Birdsell moved
- Bruning second
- Roll Call
 - Ayes: Birdsell, Glusker, Miller, Bruning, Lund
 - Noes: None
 - Absent: None
 - Abstain: None
- Motion carried

9. **ACTON/INFORMATION: PERFORMANCE IMPROVEMENT PLAN: MS. NANCY SCHMID**

- The Board did not get this document in a time to review it properly prior to the Board meeting.

MOTION: To table this item until the next Board meeting and or hold a Special Board Meeting depending on the Joint Commission requirements

- Birdsell moved
- Bruning second
- Roll call
 - Ayes: Bruning, Lund, Glusker, Miller, Birdsell
 - Noes: None
 - Absent: None
 - Abstain: None
- Motion carried

10. **ACTION/INFORMATION: TIMEKEEPING POLICY: MR. DAN CAMP**

- The only change was, instead of the employee having to check their time card, that they check the time clock now.

MOTION: To approve the Timekeeping Policy

- Bruning moved
- Birdsell second
- Roll call
 - Ayes: Miller, Bruning, Birdsell, Lund, Glusker
 - Noes: None
 - Absent: None
 - Abstain: None
- Motion carried

11. **ACTION/INFORMATION: ELECTRONIC HEALTH RECORD/MEDITECH UPDATE: MR. MIKE ELLIS, CFO**

- The Board approved the Meditech Contract last month with a lot of revisions initiated by the Hospital.
- The contract now has some revisions.
- One revision was the indemnification language, and there is some risk associated with that.

- Mr. Ruprecht had some serious issues with the indemnification provisions of the contract, and the limitations liability of the contract, which are all written from the point of protecting Meditech.
- If there were ever a law suit, Meditech first wanted the venue in Massachusetts; however they did make the following concessions:
 - California law would apply to the interpretation of the contract, and if there were litigation, the Federal Court the U.S. District Court of Northern California of San Francisco would have jurisdiction over the case. Mr. Ruprecht feels this is important because he believes that some of the clauses in the contract are unconscionable under California law. California law is quite good about having the courts throw out what they consider to be unconscionable contract clauses.
 - ✓ Unconscionable contract clauses are usually the ones that are totally for the benefit of one of the parties of the contract, where the other party doesn't have the bargaining power to get them to change these clauses, and where the other (small) party to the contract really has a need for the product that the large corporation has.
 - They agreed that if there were a law suit, the prevailing party would be entitled to their costs in attorney fees.
- Mr. Ruprecht would like them to agree to modify the indemnification provisions and their almost total limitation liability, but they refuse to.
- Mr. Ruprecht stated that the Hospital really needs to update their electronic health records. This becomes a risk/reward issue, hoping it doesn't happen it becomes a management decision.
- Mr. Ellis stated that management recommends the passage of this contract as it is, with the provisions that Mr. Ruprecht has just outlined.

MOTION: To approve the Electronic Health Record/Meditech Update

- Bruning moved
- Glusker second
- Roll call
 - Ayes: Miller, Bruning, Glusker, Birdsell, Lund
 - Noes: None
 - Absent: None
 - Abstain: None
- Motion carried

12. INFORMATION/ACTION: MEDICAL STAFF APPOINTMENTS/REPORT: DR. JOHN KERMEN

A. Appointments to Medical Staff

1. Quan Le, MD –Department of Surgery-Interventional Pain Medicine
2. Faraz Osmani, MD –Department of Medicine-Hospitalist Service

MOTION: After careful consideration recommend approval of Appointments to Medical Staff for Quan Le, MD-Interventional Pain Medicine

- Birdsell moved
- Bruning second
- Roll Call
 - Ayes: Glusker, Lund, Bruning, Miller Birdsell
 - Noes: None
 - Absent: None
 - Abstain: None

- Motion carried

MOTION: After careful consideration recommend approval of Appointments to Medical Staff for Faraz Osmani, MD-Hospitalist

- Bruning moved
- Glusker second
- Roll Call
 - Ayes: Miller, Birdsell, Glusker, Lund, Bruning
 - Noes: None
 - Absent: None
 - Abstain: None
- Motion carried

Will Lee introduced Dr. Le.

Michelle Roberts thanked everyone who volunteered at Winesong. The fund-a-cause raised a record breaking \$278,000. These funds will go toward expanding cancer care. \$372,000 was in the auction.

13. ACTION/INFORMATION: PLANNING COMMITTEE REPORT: MR. STEVE LUND

- The Planning Committee met Tuesday September 25 at 5:00.
 - They discussed Nuclear Medicine.
 - Reviewed the Strategic Plan updates.
 - People continue to apply for Parcel Tax Exemptions. There is no deadline the first year.
 - The Oversight Committee Bylaws revisions were reviewed and suggested changes will be considered and/or made. It was suggested the membership be expanded from five (5) to seven (7).
 - Last month the discontinuation of Nuclear Medicine was discussed. It was discussed again this month with Dr. Kirkman & Dr. Perry both speaking in favor of keeping it up and running.

14. ACTION/INFORMATION: CHIEF NURSING OFFICER REPORT: MS. LYNN FINLEY

- Refer to the attached report as part of these minutes.

15. ACTION/INFORMATION: FINANCE REPORT: Dr. PETER GLUSKER

- The Finance Committee met on September 25. This month the ER Department was reviewed. The August finances were in the black.

August Summary

- August's cash of \$2.4 mil increased \$.1 million from July. Board Designated Funds of \$4.3 mil remain unchanged. Together this is 45 days cash-on-hand.
- Net AR increased \$.9 mil as a result of a larger volume and corresponding revenues occurring in August. August's AP of \$6.0 mil increased \$.7 mil from July, compared to the prior fiscal year average of \$5.9 mil
- August's net patient revenues of \$4.6 million are right at budget, and \$220,000 or 5% greater than the prior month July 2018. The month's total operating expenses of \$4.8 million were \$130,000 or 3% below budget. The largest budget variances in expenses are the line items: registry \$72,000 over budget and drugs at \$46,000 over budget. August had a net operating loss of \$90,000 compared to an August 2017 gain of \$238,000. The prior year August had some extraordinary adjustments and so is not a good comparison to the current August.

- August had 23 working days in the month, the highest number of working days a month can have. Every extra working day provides an opportunity to generate more revenue to cover relatively fixed expenses. These extra working days contributed to the positive bottom-line.
- New this fiscal year is the accrual of \$133,000 for the Parcel Tax revenue that will occur every month at this amount. With this new revenue added to the other non-operating revenues and expenses the net gain for the month was \$97,000.

MOTION: To approve the Finance and Statistical Report for August 2018

- Glusker moved
- Bruning second
- Roll call
 - Ayes: Bruning, Lund, Glusker, Miller, Birdsell
 - Noes: None
 - Absent: None
 - Abstain: None
- Motion carried

16. INFORMATION: ASSOCIATION AND COMMUNITY SERVICE REPORTS

- There were no Association and Community Service Reports.

17. PUBLIC COMMENTS:

- Community members discussed issues regarding the Hospital.

18. ADJOURN:

Open Session adjourned at 7:50 pm

Reconvened Closed Session at 7:55 pm

1. Reconvocation of Open Session
 - A. Reporting out on Closed Session
 1. The Board received an update on the Union Negotiations.

Peter Glusker, MD, Secretary
Board of Directors

Gayl Moon, Secretary to the
Board of Directors