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In the Matter of PORTNEUF MEDICAL CENTER CITIZENS PANEL MEETING)

April 10, 2007

2:00 p.m.

Commissioners Ghan, Hadley and Whitworth participated in a meeting of the PMC Citizens Panel. Commissioner Ghan opened the meeting at 2:05 p.m. Panel members present” Gradyn Staley, Nancy Renn, Angela Mendez, Bob Chandler, Mark Buckalew, Mike Callaghan, Dorsey Hill, Tom Sahlburg, Tom Dial, Charles LEvans, Judy Adkins, Lela Liggins and Steven Weeg. Present from PMC were Pat Hermansen, Krista Madsen, Cal Northam, John Wilker, Brad Huerta, and Russ Wight. Bannock County Attorney Zach Parris, Kelly Hirning, Chariman of the PMC Governing Board, Bannock County Assessor Jo Lynn Anderson, and Glen Allen were also present. Cindy Hepworth was present taking minutes.

Ghan gave an update and spoke of the article in today’s Idaho State Journal stating the media has questions regarding the hospital. Ghan said he is not aware of any special deals to sell the hospital. Hermansen said he has no knowledge of anything in that regard. Ghan said the panel is complete with the exception of someone representing the City of Chubbuck, and a family practitioner. He said we are close to the full committee. Ghan asked the group if they wanted to elect a Chair or how they wished to continue. Also they needed to discuss how many meetings, where and when they would hold them. However the primary focus for today’s meeting was to hear from PMC representatives to give us an idea historically of how we have gotten to where we are at and what options we have now.

Larry announced Neil Moss, Executive Director of the Idaho Health Facilities Authority is very interested in being of assistance to Bannock County and said they will join the meeting via conference phone.

Hermansen gave an overview of the matter as follows:

Why Build now?

ED capacity issues: He stated they anticipate 41,000 visits to the emergency department this year in an ED that was designed for 14,000 visits.

Expanding Services: We created the heart and vascular center, added new equipment, and additional capacity in an

Aging infrastructure: where boilers, air, and wiring need to be replaced.

Room and Elevator Limitations: Hospital beds have grown by one foot leaving little room in an elevator for beds with necessary equipment.

Consumer expectations: Competing facilities expect something more modern and up to date. Physician recruitment is difficult as recruits are looking for something that meets their expectations and equipment needs. We have recruited 40 new physicians into Pocatello this past year and we must continue to build to keep that momentum going.

What’s at issue and how did we get here?

Access to capital: We need to maintain momentum in our building project which is 30% done.

Timing of Supreme Court Ruling:

The need to maintain momentum in the building project: There are enough resources to carry through until 2008, beyond that without being able to bond for more money we'll see project delays or stoppage.

Consequences of stopping or delaying construction

Cost inflation and demobilization expenses: Cost inflation of up to \$10M if there are delays. Demobilizing and remobilizing construction activities make it hard to find contractors.

Damage to hospital programs and physician practices: There is the possibility of the need to move programs to temporary locations.

Inability to attract new physicians

Dependence of East Center Street development on hospital plans

Economic Development impacts

An abbreviated history

1905-7 Pocatello General Hospital formed by concerned citizens.

1915-8 St Anthony Hospital formed by the Sisters of Mercy

1951 Pocatello General Hospital became Bannock Memorial Hospital

1977 St Anthony Hospital sold to Intermountain Health Care and rebuilt as Pocatello Regional Medical Center.

History

2002 Bannock Regional (Bannock County) purchased the assets of Pocatello Regional from Intermountain Health Care, consolidated operations and renamed itself as Portneuf Medical Center.

Since consolidation

2003 Study done to determine the future "home" of PMC. The options were to:

Move to a green site

Operate on two campuses for foreseeable future

Consolidate to old BRMC site

Consolidate to old PRMC site

Facility and campus master plan begun - presently making changes to the master plan as things occur with the environment. Steel and concrete costs have required looking at.

2004 Additional acreage acquired south of main hospital east campus

There is much more room at the PRMC site with 65 acres on the east bench with 8 acres on the west bench.

2004-2005 Site improvements begun to prepare for major construction

Cancer Center Formed

Heart Center opened

2005 \$65M bond issue done to pay off IHC to refinance existing debt, and to begin master plan construction

2006 East Campus Construction Activity

East wing came down, small medical office building came down, new parking garage and medical office building begun

Imaging department remodeled and expended

Hermansen said there is currently under construction a two level parking structure.

Niel Moss, Shelley Shannon and attorney Mike Stoddard from the Idaho Health Facility Authority joined the meeting in progress. Niel Moss said the IHFA was created in 1972 to be the authorized bond issuer for tax exempt facilities.

2007 East campus construction activity - constructing parking garages will be complete as will the south medical office building.

2007-2008 Small medical office building come down with the north MOB to begin. The helipad will relocate and the day care center will relocate. North side utilities will be relocated and the north entry road to campus will change and north loop road will be completed to aid in getting emergency vehicles into the facility.

2008??? What's next? Central energy plant. North tower with new emergency department. South tower. Additional medical office building, helipad, ancillary building(s).

East campus total site plan was looked at. Additional buildings include restaurant plant, additional parking. Surrounding property was reviewed.

Remaining work not fully resolved include behavioral health currently in the lower level of long term care center on the west campus which has not been programmed into this building. Cancer center to go hopefully into the Optimist Center if they come. Day care relocation. Family Practice Residency relocation closer to the hospital

How to pay for this? We can continue to use revenue bonds for the vast majority of it. We have done 4 or 5 significant bond issues in the history of the county hospital. This continued to be the plan however the Supreme Court ruling changed those plans. They can make some improvements in the operation to generate a level of net income that will satisfy the debt requirement of those bonds. The west campus was appraised at \$30M several years ago so they could dispose of those assets to invest in the east campus. A philanthropy campaign is ongoing for the emergency department. Partner with the community half and half. Use other people's money, developer financed buildings.

The plan has always been to use revenue bonds and now we can't. Several alternatives are being looked at that could solve our problem however we need to determine what is best for the continued viability of quality health care services for our community. The sooner we get consolidated on one campus the better for everyone. It costs a great deal to operate both campuses and the longer we do this the more it will cost us. They are paying doctors to stay overnight at east campus to care for ED patients. Infrastructure costs and other unnecessary costs continue until we are on one campus.

If we rely on current tools i.e., general obligation bonds this would require a vote and possibly taxes would go up to pay for the hospital. Hermansen said they would estimate possibly somewhere between \$500 and \$800 dollars a year for each taxpayer if we use these bonds and the hospital could not pay for them.

We can work toward a constitutional amendment to exempt hospitals from the ordinary/necessary language. An amendment takes 2/3's of each house and 50% plus 1 majority vote to pass in a general election which could not be held until 2008. If that election fails the next general election is in 2010. Hermansen thinks we could get the legislative support but maybe not get a vote through.

Facilitate a legal test for the Supreme Court

Convert to a non-governmental organization

OPTIONS

Do nothing with general obligation bonds being the only form of capital

Conversion to not for profit

Conversion to for profit

Management contract

Not for profit options could be done as a stand alone entity. 501 © (3).

System affiliation, leased or sold to a system or create a new system by seeking other facilities to join us in our endeavor.

University affiliation making it a state problem.

For profit

Sale to a system

Sale to investors

Syndication with medical staff

Local ownership by employees or local investors.

A committee member asked where the helipad would be located on the new building. Hermansen said the helipad is currently located to be on top of the building however at that point it has to be fueled at the airport which requires additional trips, miles and maintenance costs.

Dorsey asked what would be the hospital's preference. The Hospital Board has concluded the most effective way is to convert to a 502 © (3) not for profit so the hospital can bond bypassing the ordinance/necessary wording by the Supreme Court. It was clarified that the hospital is currently rated for bonding as a free standing hospital so losing the county ties would not affect their bond rating. Moss said the current revenues of the hospital are based on the hospital with no obligation to the county so with 501 © (3) the hospital

would see no change. Hermansen said it was a 12 to 1 vote by the Board in favor of this option with the one against feeling they were moving too fast.

Hadley questioned another hospital coming into the facility. Hermansen said Mountain View Hospital was developed by a group of physicians in Idaho Falls and felt they did it for the convenience and opportunities it presented them and their patients. There was some financial self interest as EIRMC monies go to Nashville. Mountain View is a 25 bed hospital so they struggle a lot and have issues with lawsuits. Hermansen said if we don't find a resolution as to how we are going to fix this someone might do it themselves which will only make it harder if we lose that volume. Dr. Evans said he felt sure that the doctors in the area don't want to start their own facility.

There was some discussion as to tying doctors through agreement to the hospital. Rocky Mountain surgery center moving into the hospital was mentioned.

Weeg said there is currently a medical foundation that they might be able to join, however this would require a new application process with the IRS which could take up to a year to implement if everything goes smoothly.

The 501©(3) option was discussed. Bonding for the \$150M would not be done all at once. It is anticipated the hospital main parts would be completed on the east campus late 2012. Idaho conversion codes allows for conversion by County Commissioners without a vote. Another allows for a vote but can go private, 401©(3) or whatever. Without a vote the statue says the members of the corporation representing cities and counties creating the company appoint a board of directors to 2 three year terms with those members appointing the new directors.

Members would be broadly representative of citizens. Rights of reversion was discussed. Should the entity not act appropriately the hospital would revert back to county. Should it not be maintained in similar condition as it had been previously it would revert back to the county. Any major hospital has significant financing in place including financial covenants and maintenance covenants which any new 501©(3) would be held to make certain the hospital is kept up.

Renn asked what the employees and community perspective is? Hermansen said employees are fearful of the hospital being sold as they are afraid of the unknown. He said the problem is access to capital and the Hospital Board has made the decision as to what they would like to see happen.

Russ White reviewed the options.

Idaho Code Section 31-3515 allows for the sale or lease of the county hospital which is not valid until the voters approve it.

Idaho Code Section 31-3515 (a) provides for the 501 (c) (3) forming a nonprofit corporation, board named and if that changes the property reverts back to the county.

The Frazier decision paraphrased that no county shall incur indebtedness unless they can pay with funds available that year, unless they go out for a vote and plan to pay it back in a year.

Russ White said the city of Boise was going to build a large parking structure and they filed with district court for a judicial confirmation to bond to pay for this parking structure. They asked the judge to determine judicially that that bonding fits within the ordinary/necessary language of the constitution. The judge found in favor of the city of Boise indicating the constructing of this 5 story parking garage was within the ordinary/necessary expense. This decision was appealed to the Idaho Supreme Court and in April 2006 the Supreme Court looked back to a 1897 case and basically they decided the word necessary should be decided much more strictly. The net effect indicated a necessary project had to meet very strict standards.

Before Frazier was decided there were three ways public entities could obtain long term financing. One was through a bond election under Article 8 Section 3 which was to go to the voters to ask them to pass general obligation bonds for that long term funding which needs 2/3 of the voters to pass, and if there is any default the voters would have to pay off those bonds. The second way was to go to a district judge and obtain his confirmation that the project fit within the ordinary/necessary guidelines. The third way was a bond counsel option in which an attorney who specialized in long term bonding gave their opinion if the matter was an enforceable and legal obligation. The Bond Council would give a legal opinion if the project could be bonded meeting the ordinary and necessary expense by definition. A clean opinion would now be hard to get due to this Supreme Court decision.

The Frazier decision defined necessary as it has to be urgent and there has to be a necessity of making the whole expenditure in one year. PMC can't expend all of the bond financing they need to construct the entire campus in one year so this decision has locked them out of getting a judicial confirmation or a legal bond council.

Parris reminded Bannock County is looking to expand the sewer in the north county and this must now go for a vote of the public to go on with this expansion project. So this decision effects more than the hospital.

IHA and the IHFA is working on a constitutional amendment for the 2008 general election. IHFA is working on pulling a test case together. Public entities are investigating conversion provisions to become a 501©(3) not for profit hospital so they will no longer be a government entity and will not be affected by the Frazier decision.

Wight reminded the hospital bond rating is based on the hospital itself so the 5901© (3) conversion would not effect this rating as the hospital has a stand alone rating.

OPTIONS!!!

Prepare for bond election
Work with IHA on a constitution amendment
Support IHGA in finding a good test case to take through the court system
Change in hospital governance – conversion to 501(c) (3), lease, sale or a combination of such alternative.

PMC is skeptical of a bond issue for \$150M with the proviso of the taxpayers being liable if the hospital fails to pay.

CONSTITUTION AMENDMENT

Requires 2/3 vote in state legislature to get to the ballot. Language agreed to between IHA and IHFA for next legislation session. Could not go on the ballot before 2008, failing approval it could not go for vote again until 2010.

LEGAL TEST CASES

No perfect case had been identified. IHFA would bear the costs of such a case. It would need to go all the way to the Idaho Supreme Court and is estimated to take two years.

CHANGE IN HOSPITAL GOVERNANCE ALTERNATIVE

Conversion to 501 © (3) (two alternatives)

Lease to another organization or system for-profit or not-for-profit

Outright sale to another organization or system – for-profit or not-for-profit.

CONVERSION TO 501© (3)

Idaho Code 31-3515

Simple majority vote of electorate.

Right now there is a current \$65M bond and the hospital cannot be sold but only leased or all the bonds must be paid off. There current bonds are tax exempt low interest rate bonds.

Conversion can be made via sale or lease and can be for assumption of assets and liabilities or any amount of money.

Possibility of future sale or lease is allowed

Bond covenant considerations

Conversion to 501 © (3)

Idaho Code 3515A

Vote of electorate not required

Conversion can be made via sale or lease

Can be for assumption of assets and liabilities or any amount of money

Board makeup is defined

Possibility of future sale or lease is disallowed

Bond covenants considerations

Lease of PMC to separate system or organization

IC 31-3515

- Simple majority vote
- Can be leased to either for profit or not for profit
- Length of lease negotiated by the parties
- Can be for assumption of assets and liabilities or any amount of money negotiated by the parties
- Board makeup – decided by the new lessee
- Possibility of future lease is allowed
- Pay off of current PMC bonds FP required NFP likely
- IHC right of first refusal triggered

Lease of PMC to separate system/organization

IC 31-3515A

- Vote not required
- Can only lease to NFP
- Lease term cannot exceed 99 years
- Can be for assumption of assets
- Board makeup is defined
- Possibility of future lease is disallowed
- Pay off of current PMC bonds likely
- IHC right of first refusal triggered

Sale of PMC to separate system or organization

IC 31-3515

- Simple majority vote
- Can be sold to a for profit or not for profit
- Can be for assumption of assets and liabilities or for any amount of money
- Hospital can be resold

Zach said you can negotiate for a board if sold that would allow local control, can contract for certain things so there are options.

An election was discussed which would could cost up to \$60,000 plus dollars.

Much discussion as to IHC right-of-refusal. It was agreed Pat Hermansen could ask ICH if they are interested in coming back. IHC has left the state of Idaho market. Burley is the last IHC hospital in the state of Idaho. Whitworth questioned a for-profit which has to be done under a vote. Idaho Code 31-836 allows the county to lease certain property for less than 20 years. Moss reminded they would still have to pay off the bonds.

IHFA sent a Law Review article regarding the Frazier case and also an Ad Hoc Committee Chart of the Frazier decision. Ghan asked if Moss would consider coming to visit with us. Moss said they would be happy to with no charge as they have an interest in this and no ax to grind either way. Moss said there were available other than April 24-29 as they are at a National Conference.

The Supreme Court decision was a 3 to 2 vote.

Ghan asked if the panel would like to continue as is or elect a Chair? Buckalew said there are some pretty strong personalities in the group and asked who has the time to put these meetings together and run the meeting. He said they were getting to the point of coming down to two or three different scenarios. Salberg said the Commissioner's access to staff which the committee members did not. Dial suggested they leave it the way it is. If needed, a chairman is always an option but the Commissioners are doing a fine job. Ghan said staff could continue to be of assistance but sees the Commissioners as needing two or three formal hearings and then additional community meetings as well. Time is an issue because of the construction schedule.

Hermansen said they have waylaid some construction already which has slowed down the building progress.

Mark Buckalew said he a recent member on the PMC Board and is still learning things pertaining to this issue. He questions bringing the public up to speed quick enough so that everyone is on the same level of understanding. It is very difficult to understand and there is much information for the public to try to grasp. It was his understanding that the committee was to give their opinion. Ghan said it would have to be done in a series of meetings with the assistance of the media to try to educate people to those alternatives. Buckalew again stated we had been there for over 3 hours and questioned how we could hold these meetings to give the public opportunity to grasp the information stating this could possibly take too much time. This is not a simple thing. It was suggested public meetings could be hold at city halls in Chubbuck and Pocatello.

Ghan said he would like to reach a decision before the end of May. Gradyn asked if they wanted a written recommendation from the committee to the commissioners or did the commission want to listen to discussion of the committee and form their own opinions. Whitworth said along with the public comment that is what he would like to do. It was felt this could be done if there were minutes of the meetings and the panel could make a future possible as to recommendations.

Lela Liggins said quality of care should be clear as to their option. Renn questioned if the panel could put together reasonable issues to be addressed by the community to actually get comments from them stating too much information could confuse the issue. The committee could help take that information to present to the public reducing the information to the four best options. They discussed having three more public meetings, and one each at the City of Chubbuck, City of Pocatello and Marsh Valley High School. They discussed option and wanted to get Capella here so they could present their information. Keep the public informed as to where panel is headed. Ask for citizen input by having public community meetings, presenting the options identified with pros and cons and then asking for community input. Dial said he wanted more product knowledge before jumping into the fray.

The next meeting was set for April 24th and 2:00 p.m. at the Commissioner's Office at which time Capella will be giving their presentation.

