

# Pend Oreille Hospital District MINUTES

January 28, 2019

A meeting of the **Board of Trustees of the Pend Oreille Hospital District** was held in the classroom at Bonner General Hospital.

**Present:** Tom Lawrence, MD, Tim Cochran, Jim Frank (per phone), Scott Burgstahler, MD, Dan Rose, Bart Casey, and Shawn Woodward. Others present: John Hennessy, Colton Boyles, Sean Smith, and Sharon Beeman. There were also 7 guests from the public.

The meeting was called to order at 7:01 a.m. by Tom Lawrence, Chairman.

## **Business:**

1. Dan Rose asked for the Chairman to confirm that there was an "Agreement" between the Pend Oreille Hospital District and Bonner General Hospital, Inc.
2. Motion to continue meeting was made by Shawn Woodward and seconded by Scott Burgstahler. Approved by 6 Yes votes, 1 No vote by Dan Rose.
3. Dan Rose asked the Chairman to confirm that a POHD Legal Affairs Committee had been established.
4. Dan Rose asked the Chairman to confirm that "Other" is not listed on the Agenda when it had always been there before. Dr. Lawrence confirmed that it has only been on the Agenda for the past year and was taken off due to length of agenda and time constraints for the length of meetings.
5. Dan Rose asked the Chairman to confirm that he received an email requesting payment of Attorney Sean Smith's invoice and to add that as an item to the January Agenda. Dr. Lawrence noted that it was approved at the November 30, 2018 meeting to have only one Law Firm represent the POHD.
6. Dan Rose made a motion to add 3 minutes of public comment time to the end of the meeting agenda. No second received.
7. Dan Rose made a motion to add to this month's meeting agenda and future meeting agenda to contain an "Other." No second received.
8. Dan Rose made a motion for emergency assertion of legal invoices to be paid for both the Davillier Law Group and Attorney Sean Smith. No second.
9. Dan Rose made a motion for emergency assertion of Agreement from Kim Stanger. No second.
10. Approval of Agenda: Motion to approve original Agenda was made by Shawn Woodward, seconded by Scott Burgstahler, approved by 6 Yes votes, 1 No vote by Dan Rose.
11. Dan Rose made a motion for emergency assertion of disciplining/termination of the Davillier Law Group as POHD Attorney. No second.
12. Chairman, Tom Lawrence, asked the Trustees if there was any objection to the meeting being video taped. No objections.
13. Shawn Woodward made the motion to approve the minutes of the December 18, 2018 meeting. The motion was seconded by Bart Casey. Approved unanimously.
14. Dan Rose made the motion to replace the POHD Secretary with an outside person, not affiliated with BGH. No second received.

15. Motion was made by Shawn Woodward to enter into Executive Session under Idaho Code 74-206f(1)(F) regarding threatened litigation and criminal allegation by Pend Oreille Hospital District Trustee Dan Rose and to exclude Dan rose from the executive session so the Board can speak freely and receive legal advice from POHD Counsel without waiving attorney-client privilege for these issues on which Dan Rose may be adverse. Seconded by Jim Frank. "Yes" votes were received by Tim Cochran, Tom Lawrence, Jim Frank, Bart Casey, Scott Burgstahler, Shawn Woodward. "No" vote received by Dan Rose. Entered into Executive Session at 7:13 a.m.

Public attendees and Dan Rose were asked to leave the meeting room for the Executive Session. Dan Rose refused to leave and objected as to the legality of insisting he leave and stated there was no litigation or suit against the POHD. The motion was restated by Shawn Woodward. Dan was asked several times to leave and was also asked to leave by an Officer of the Sandpoint Police Department.

16. POHD Meeting was resumed at 8:20 a.m. The meeting's Public attendees and Dan Rose re-entered the meeting room. Shawn Woodward made the motion to make the following resolution:

The Pend Oreille Hospital Board, being duly assembled and a quorum present, hereby resolves and declares that Mr. Rose is an adverse party with regard to the following issues for the following reasons:

- 1) POHD is unable to determine whether Mr. Roses' actions and statements are conducted in his official or individual capacity;
- 2) Mr. Rose refers to himself as complainant, complainant-trustee, taxpayer, constituent, constituent taxpayer, and taxpayer complainant when referring to the same subject matter;
- 3) Mr. Rose makes identical simultaneous requests to POHD both in his official and individual capacity;
- 4) Mr. Rose has hired an attorney, Sean P. Smith, to represent him in his capacity as POHD Trustee and his individual capacity;
- 5) Sean P. Smith has publicly stated that he has a "legal foundation that takes on government";
- 6) Mr. Rose and his counsel, Sean P. Smith, have publicly threatened to sue, and take action against POHD and POHD Trustees and it agents in their official and individual capacity for various professional, civil, and criminal allegations, including but not limited to:
  - a. Alleged constitutional violations by the Board related to its funding of Bonner General Hospital (BGH)
  - b. Open meeting laws
  - c. Public records law
  - d. Misuse of public monies
  - e. Obstruction
  - f. Obstructing a public officer in the discharge of the duties of public office
  - g. Corruption
  - h. Bribery
  - i. Fraud
  - j. Racketeering
  - k. Civil RICO
  - l. Abdication of Trustee duties
  - m. Other violations of State and Federal statutes
  - n. Professional licensing requirements and civil obligations
  - o. Any resolution with the office of the Attorney General of the State of Idaho, and
  - p. Any negotiation and/or finalization of any contractual relations between POHD and BGH (the "Issues")

- 7) Mr. Rose and his attorney have taken an aggressive and adversarial position to the POHD Board regarding the issues.
- 8) Mr. Rose is likely to bring litigation and continues to collect information to use in his threatened litigation, therefore we conclude that the issues involve pending litigation, or controversies not yet being litigated but imminently likely to be litigated;
- 9) Mr. Rose is an adverse party;
- 10) The presence of Mr. Rose in Executive Session regarding the issue would prevent the Board from receiving any legal advice from POHD Counsel regarding the issue because he is adverse, and any such advice given in his presence would waive the attorney-client privilege.

Accordingly, the Board hereby resolves and declares that Mr. Rose here forth shall not be included in any Executive Session which relates to, or discusses the issues, and shall be recused and sequestered therefrom.

And furthermore, the Board hereby declares henceforth, that Tim Cochran, or in his absence, Bart Casey, shall be responsible for admonishing Mr. Rose to recuse and sequester himself, as when appropriate, in accordance with the above.

Scott Burgstahler seconded the motion. The resolution was approved by 6 Yes votes to 1 No vote from Dan Rose.

17. Tim Cochran made the motion to “authorize the secretary to notice a hearing to file judicial examination of the proposed resolution to the issues,” seconded by Bart Casey. Approved by 6 Yes votes to Dan Rose abstained.
18. Motion from Tom Lawrence was made to Table Items V. and VI. On the Agenda pending authorization of judicial examination response has been received.
19. Tim Cochran made a motion that POHD required that a request for public records be submitted, in writing, on the “Request to Examine Public Records” form, that provides the requester’s name, mailing address, e-mail address, and telephone number pursuant to statute. Seconded by Jim Frank. Approved by unanimous vote.
20. Point of Information by Dan Rose “identify date of Attorney Letter written to the Chairman.” “Confirm Attorney Letter was received by Davillier Law Group on October 19, 2018.” No response from POHD Trustees or Attorney.
21. Tim Cochran made motion to retable agenda item VIII, seconded by Bart Casey. Dan made a motion to not table but suspend agenda item VIII, no second received. Approved motion to retable agenda item VIII by 6 Yes votes to 1 No vote by Dan Rose.
22. Agenda items IX. – January check has not been received.
23. Dan Rose “who keeps the accounting of POHD revenue funds?” Chairman Lawrence reminded Dan he has been informed of this many times in the last year and Dan took part in that election.
24. Dan Rose made the motion to remove the treasurer and use an outside person who is not affiliated with Bonner General Hospital. No second received.
25. Tim Cochran made the motion to adjourn, seconded by Shawn Woodward and was approved by unanimous vote. The meeting was adjourned at 8:33 a.m.

The next regular meeting will be February 26, 2019.

Respectfully submitted,

Sharon Beeman, Secretary