

## **“NewCo” Governing Board Meeting Minutes** **October 24, 2007**

**Present:** Kevin Cichocki, David Dunn, Evan Evans, James Evans, Robert Gioia, Mary Gresham, Sharon Hanson, Carol Kobrin, Jody Lomeo, Brenda McDuffie, Judge McLeod, Sundra Ryce, Irene Snow, Edward Walsh, Robert Wild, Robert Zak, David Zebro.

**Absent:** John Simpson.

The meeting was called to order at 8:39 AM by the Chair, Robert Gioia.

1. Mr. Gioia announced that a press conference has been scheduled for 11:00 am and invited all members of the Board to stay as their schedules allow. Mr. Gioia will lead the discussion.
2. On 10/22, Mr. Gioia chaired a sub-committee – consisting of Kevin Cichocki, Ted Walsh, David Dunn, Mary Gresham, and the 5 community members – for purposes of identifying a CEO for the new organization. Issues were discussed freely and the community members expressed their satisfaction with the outcome. David Dunn moved, with second from Brenda McDuffie, that Jim Kaskie be named CEO of the new entity. The motion carried unanimously.

At this point, the chair invited both Jim Kaskie (as the 15<sup>th</sup> Board member) and Mike Young to join the meeting. Mr. Gioia related to the Board that Mr. Young will remain an integral part of the organization.

3. Mr. Wild discussed the need for the new entity to file a Certificate of Incorporation. Until such time that the organization is approved under Article 28, the new entity will be a “passive parent.” Western New York Health System is the name that has been reserved for the entity. Because the incorporation documents refer to it as a health system, the Board may need to obtain a letter from the Department of Health (DOH). The Board can expect that it will take 12-18 months to receive tax exempt status from the IRS. This shouldn’t present any problems although in may lead some lenders for Kaleida to seek additional information.

Once DOH approves the Certificate of Incorporation, the next step is to create an amendment to give NewCo the power to act. When the filing occurs, our proposed name will be compared to other tax exempt corporations in the state and it is possible, albeit unlikely, that it could be rejected. The group agreed that a reasonable alternative is “Western New York Health Alliance.”

4. Mr. Wild reported on his discussion with Martin Beanstock from the DOH relative to the closing of Millard Fillmore Gates hospital by 12/31/07. Mr. Beanstock agreed with Kaleida’s concerns for not closing the hospital by the end of this year, and was comfortable with the fact that we will have a plan in place by June 30, 2008. It is expected that the orderly closure and transition of extant clinical services will take up to 2-3 years.
5. Representatives from the DOH met with Robert Freeman, Executive Director of the NYS Committee on Open Government to discuss the open meeting law and why it does not pertain

to this new entity. NewCo falls in line with the Catholic Health System and United Way – private entities doing public good. The open meeting law only applies to public entities carrying out public functions. As such, Board meetings of ECMC will remain open. Mr. Freeman was amenable to this explanation and therefore this issue is now considered closed.

6. Mr. Wild has met with the attorneys from both ECMC and Kaleida, and they are doing their due diligence. At issue is whether NewCo can be a true parent subsidiary model where the parent appoints the Boards of the two systems, or if we will be prohibited from appointing the Boards due to legislative restrictions surrounding ECMC.
7. Mr. Gioia distributed a draft Letter of Intent (LOI) that was created as a result of the continued efforts by Mr. Kaskie and Mr. Young. Mr. Gioia commended both CEOs for moving from competitors to collaborators. All attorneys have signed off on the current language and each Board will need to approve the document at their respective Board meetings – ECMC on Thursday and Kaleida on Friday of this week.

Mr. Kaskie indicated that he views the LOI as framing the principles and ensuring motivation to move forward. It also frames the obstacles and barriers, and provides safeguards for fiscal integrity and building trust. Mr. Young stated he believes the document provides a clear example that they are professionals who can make this happen. He asked that members of the Board be careful on how they communicate to the press – Mr. Young anticipates that ECMC will experience a couple of key resignations and moves to the other health systems. Further, he stated his opinion that the Board must be careful that funding decisions are not perceived as advancing one entity over the other.

The Board agreed that the three Board Chairs and the two CEOs should personally present, as a team, the LOI to Commissioner Daines, or his representative(s), in order to send the messages of positive progress made to date and the spirit of collegiality by which the agreement was reached. Mr. Wild indicated that the merging of a private corporation with a public benefit corporation is unique, and that meeting in person to deliver the LOI affords representatives of NewCo the opportunity to clearly indicate that the entities are doing what they have been asked to do and to indicate that sufficient funding is required to proceed with implementation.

Significant discussion ensued relative to providing clarity on the language of the LOI.

Evan Evans moved, with second from Sundra Ryce, to move the LOI forward, with the minor revisions addressed during the discussion, to the respective hospital Boards for their anticipated approval. The motion carried unanimously. David Dunn requested that the updated LOI be distributed to this Board.

8. Mr. Gioia discussed the concept of creating three coordinating committees – Governance Best Practices, Due Diligence, and Strategic and Community Health Plan. He asked that individuals email him their edits and suggestions to the committee structure and in which committees they would like participate. Mr. Gioia will appoint the chairs and also reserves the right to make committee assignments.

The group agreed that it needed a well-organized external communication plan. Mr. Gioia requested that a communications subcommittee be formed to review the issues and make a proposal to this Board. The Board agreed that the subcommittee will be the PR staff from the three entities – Michael Hughes from Kaleida, Tom Quatroche from ECMC and John DellaContrada from UB.

It was agreed that this Board does not need an Executive Committee, that the elected officers can serve that capacity. However, it was further determined that the various committees should report back to the full Board and that all substantive issues will be handled by the full Board.

9. Judge McLeod shared with the Board the many requests he has received to include more health professionals of color in the decision making of the Board. Mr. Kaskie responded that we do need to reach into the community as we expand our planning process, for both clinical services and community health. But he also pointed out that we are not here to solve all community issues. David Dunn suggested that we need to understand the corporate and committee structures of both organizations and that we consider utilizing some members from those groups. Mr. Cichocki and Mr. Walsh will share their current structures with the Board. The group agreed that all individuals need to maintain confidentiality of Board efforts and limit community involvement to one of advisory capacity.
10. Mr. Gioia stated that he will be looking for a different location for future meetings, possibly the WNED TV studio. He will report back by Friday. If the meeting stays on the UB campus, it is scheduled for 567 Capen on 10/31/07, 8:30 AM – 10:30 AM.

Mr. Walsh suggested that we move away from weekly meetings in order to allow the committees to proceed with their work.

11. Discussion items for the next meeting were discussed:

- Framework for committees;
- What staff support are available;
- Who will provide meeting minutes.

12. The group strategized on the messaging for the press conference. Mr. Gioia will open the press conference talking about the process and leadership. Mr. Kaskie will focus on the future, and Mr. Young will describe the opportunities that NewCo affords the community. Q&A will follow the formal remarks.

The meeting was adjourned at 10:25 AM.

Respectfully submitted,

David L. Dunn, M.D., Ph.D.  
Secretary-Treasurer