

MINUTES OF THE SIXTH MEETING
BOARD OF DIRECTORS
MERCY HOUSE OF SARATOGA, INC.

The sixth meeting of the Board of Directors of Mercy House was held on the day and the place set forth as follows:

Time: 7:00 p.m.

Date: November 25, 2019

Place: 43 Washington Street, Saratoga Springs, New York 12866, (First Baptist Church Parish House)

Present: Gordon Boyd, Karen Finkbeiner (invited guest), Mark Griffin, Doug Huston, Howard Nelson, Tom Remington, Mary Sanders Shartle, Mary Withington. Absent: Mark Claverie.

Chair: Gordon Boyd, President, chaired the meeting. The meeting convened at 6:58 p.m.

MINUTES

RESOLVED, that the meeting minutes of September 9, 2019 be entered into the record. A motion was made by Mary Withington to accept the minutes, and the motion was seconded by Howard Nelson. All ayes.

TREASURER'S REPORT

RESOLVED, that the treasurer's report, September 1, 2019 through November 18, 2019 be hereby approved. Mary Withington moved to accept the report, seconded by Howard Nelson. All ayes.

OLD BUSINESS

Laura Bradigan has withdrawn from the board. Although she is extremely supportive of the Mercy House project, her extensive involvement with the Hyde Museum is a deterrent for her continued involvement with us. We should look to replace Laura with someone from outside the parish. Annual election of board members will be in January, and we could recruit some people from other organizations to supplement board positions, but avoiding people with whom we are doing business. We should keep in mind our need for people who are aware of the new state regulations regarding rental property and how to maintain compliance with building codes. We also need board members who will understand and recognize who can become appropriate tenants.

Director's and Officers' Liability Insurance Report – Matt Welch, Risk Manager with Rose and Kiernan Insurance Brokers, East Greenbush, NY.

Matt gave background on his firm, which serves a number of not-for-profit organizations. R&K is an employee-owned firm.

The recommended plan will provide coverage for the board members if they were sued for any reason for actions done while serving Mercy House. Coverage does not extend to actions outside of that. The policy provides a million dollars in coverage if a suit were brought against the Mercy House board. This covers both the liability and the cost of defense. Outside defense costs would not drag down that policy limit. Rose and Kiernan believe a million is adequate, with a \$1500 annual premium and a \$2500 deductible. That million dollars covers the entire board. There is also an additional line of coverage in the general liability policy so that, if the board made an irresponsible decision that created a hazard, we would be

liable for any number of claims, say, if lots of people fell on an icy ramp; or if the board mishandled or misused donor monies.

This policy will be in effect at the start of construction. Bethesda will have a Builder's Risk Owner Liability. Matt stressed that it is imperative to know your general contractor and subcontractors' policies and claims processes; out of multiple parties, who holds responsibility if something were to happen? The carrier for our policy is called "Selective." R&K places the majority of their not-for-profit director and officers' policies with Selective. R&K has a complex claim department, which hires in-house legal counsel. If R&K's claim department can't settle a claim with the carrier, R&K's claims attorney gets involved. If that claims attorney can't get a claim settled, and the insurer ends up using counsel, R&K does forty percent of the leg work in-house before the clients have to seek legal counsel at no cost to the client. That's included in the premium.

RESOLVED that the proposal by Rose and Kiernan be accepted. Tom Remington moved to accept and Mark Griffin seconded. All ayes.

Gift Acceptance Policy – Howard Nelson

This is an excellent, comprehensive, and well-crafted document. Now that we have the policy, if someone wishes to give money to Mercy House for any specific allocation or use, we now have the document which will allow us to accept restricted donations. The \$25,000 from NYTHA was put in the general fund. The bookkeeping is in common with the endowment of the church proper. The parish endowment committee deals with gift acceptance and investments for the parish. Checks to Mercy House will come directly to us, not Bethesda or the endowment committee, and will be deposited in the Saratoga National checking account. Gifts will be sequestered by the type of donation and/or specified restricted gifts, which will be carefully segregated and identified as such by the bookkeeper.

RESOLVED that the gift acceptance policy be accepted. Mary Withington so moved and Doug Huston seconded. All ayes.

Ground Lease between Mercy House and Bethesda

The agreement has a standard automatic annual CPI accelerator included which was questioned, since Bethesda has a reciprocal landlord relationship with Mercy House. Bethesda shouldn't need an automatic accelerator, because they are not essentially involved in the running of Mercy House--the tenant agencies are. But would Bethesda be hurt if one year there's no rent increase and their expenses increased? Very few commercial leases have an *annual* accelerator. It is more common to have one every two or three years. Would we need to renegotiate annually if it was not automatic? Gordon said that the CPI accelerator was included by Jim Cox, who drew up the lease agreement. The tenant groups rents in some cases are tied to the HUD market rate, which also has an accelerator, but does not necessarily match the CPI. We can make adjustments to the lease language prior to executing the lease with the Bethesda vestry.

The other issue involved is the tax exempt status and non-related business activity of the church with the rents coming in from Mercy House. Bethesda's CPA looked at the lease from the point of view of both Mercy House and Bethesda remaining tax exempt. This ground lease is a foundation document that will remain a cornerstone of Mercy House's relationship with Bethesda. The initial term is for fifty years, with two 25-year renewals. Under terms of Mercy House's incorporation and bylaws, Bethesda will continue to nominate candidates to Mercy House's board similar to Bethesda's relationship with the Home of the Good Shepherd. We want to make sure that this document also serves the people that come after us. This agreement will go to the diocese in its current form with the proviso that there may be minor changes, like the CPI versus the HUD rate and accelerator. Under canon law the lease, along with the construction of

the building, has to be approved by the diocesan standing committee, and that meeting is next week (December 2nd, 2019).

There was no need for a motion to accept the proposed lease agreement.

PROJECT STATUS

Contractor bids due December 6th

The building specifications were originally in consideration with three companies: Turner, VMJR, and Sano Rubin. Turner pulled out. Sano Rubin has been eagerly interested. Bids are due December 6th. Gordon will be meeting with Darren, architects and the bidders. The parish and contractor should come to an agreement within a few days after that. Bethesda has around \$2 million in the endowment from the sale of the church properties several years ago. Ideally the additional donor's pledge will come through as soon as possible. (There is no information yet when that might happen.) Bethesda is looking at possible bridge financing until the donor's pledge comes through, so that it has more money available when we start construction. Gordon and Darren have signed a non-disclosure, confidentiality agreement with a local broker/finder to come up with other donor suggestions. If he has any concrete ideas, he will get back to Gordon on Monday (December 2nd). It is unlikely that Saratoga National will give us \$9 million based on the donor pledge alone, unless there is some kind of personal guarantee to back it up. We need to be under construction before March 9th when the planning approval with the City of Saratoga Springs will expire. Once we are happy with the bids, the contract has to go over to the city to get a building permit. That might take a few weeks or a month. We are more likely to have a January start date.

Asbestos Inspection

We had a very thorough asbestos inspection of the church building. This was to answer a bidder's concern for what might be revealed where the new building will join the old in the proposed construction. The entire undercroft and the roof (including asphalt shingles) were inspected; almost all of the 9x9 tiles in the undercroft contain asbestos. In addition, the tiles in the first floor stairwell and the bathroom have asbestos. All will be dealt with at the time of construction at an estimated cost of \$12,000 for the construction-related asbestos.

HVAC

Kohler-Ronan, the technical consultants for the architects, returned to look at the integration of the two heating and cooling systems: would it be possible for whatever goes into the new building be able to serve the church building as well? The consensus was that neither the boiler nor the AC unit on the south wall is in need of immediate replacement. But we will have a conduit and piping put in with the new construction to the old basement under the bell tower. If we do need to replace the boiler under the church, it will be attached by the newly installed pipes connecting to the system in the new building.

Solomon Trust?

There was no application to the Solomon Trust and the deadline has passed. The next round of funding is in the spring. We will be under construction by then--more of a reality. The Solomon Trust is more geared to interior furnishings anyway.

Motion to Adjourn 7:54 p.m. Mary Withington moved to adjourn. Mark Griffin seconded.

Next meeting is scheduled for January 6th, 2020, The Feast of the Epiphany at 43 Washington Street.

MSS

Mary Sanders Shartle, Secretary