

CITY-COUNTY BOARD OF HEALTH MINUTES

Board Meeting

April 14, 2023 | 7:30am

PRESENT:

Tom Overn, Chair
Sarah Hansen

Cindy Schwehr
Dick Gulmon, Vice Chair

Via LifeSize:

Chelsea Traverse, Health Officer/Secretary
Corey Quinton, Attorney with Fisher Bren & Sheridan

ABSENT:

ALSO PRESENT:

Theresa Will, Administrator
Katie Beyer, Deputy Director

Evonne Johnson, Office Manager

CALL TO ORDER:

The Special Health Board meeting was called to order at 7:30am by Tom Overn, Chair, in the CCHD conference room or by remote.

AGENDA:

Agenda was reviewed. Motion made by Dick Gulman to approve agenda, Seconded by Sarah Hansen. Unanimous vote, motion carried.

NEW BUSINESS

1) Discuss Amachi Contract:

The board introduced themselves to Corey. Corey Quinton introduced himself. He is the attorney from Fisher Bren & Sheridan retained by CCHD through the ND Insurance Reserve. Will discuss the merits and the pros and cons of trying to resolve the dispute with Amachi through Small Claims Court. Judge Jay Schmitz is the judge assigned to the case. The Judge is not required to formalize their rationale for their decision. Meaning it is not always the facts, law, or merits of the dispute that end up driving the decision. It's a lot more equity based, meaning that the Judge decides more on what is fair and reasonable. Jenna Bergman will be handling the case moving forward. They feel the board had justifiable reason to withhold payment. It seems that Amachi was not living up to the contract requirements. However, there were a couple of concerns: 1) In the contract Amachi was not required to perform housekeeping duties but rather make sure the tenants perform them and concern about the deduction of cleaning costs from the payment amount that was made and 2) contract specified a different hourly rate, agreement for different amount was reached outside of the contract. These would be areas a judge may make a different decision. One of the strongest defenses we have is that they did not submit invoices in the required time stated in the contract, they were extremely late in submitting invoices. He understands if the board wants to move forward due to setting a precedence on how items like this are handled in the future. Options: 1) Offering to pay back \$600 that was deducted for cleaning expenses. 2) Come to a number to offer them to settle. Any defense costs will be paid by the ND Insurance Reserve, but any judgement will come directly from CCHD. Both options are without admitting that we have done anything wrong. Dick questioned if we offered to settle in good faith, would that make any difference in the judge's

decision? Corey said that it would show good faith that we did try to settle the dispute outside of court. Theresa asked what the letter was that Amachi was looking for in the email she received from Jim Onerheim, the President of the Amachi Board. Corey indicated that Amachi did not pick up their certified letter, which was the attorney's response on behalf of CCHD, and it was sent to the address they indicated on the claim's affidavit. When a litigation is in process, Amachi should not be contacting CCHD directly. All communication should be handled through Jenna or Corey. The Board is in agreement that we should allow the attorneys to make an offer of \$600 to start with and a maximum offer of \$2,500. Also including that the board is no longer responsible for any future claims.

Dick made a motion to start with an offer of \$600 with a maximum of \$2,500 seconded by Cindy Schwer. Roll call: Tom Overn – Yes, Dick Gulman – Yes, Cindy Schwer – Yes, Sarah Hansen – Yes, Chelsea Traverse – Yes.

Per Corey, if this is resolved out of court they will require Amachi to sign a release to make sure that all claims potentially against the board are extinguished and denying any liability.

Corey Quinton exited meeting at 7:53 am.

- 2) Executive Session regarding confidential records related to protected leave type. Cindy Schwer made a motion to move into Executive Session Dick Seconded. Cindy made a motion for everyone to remain in the meeting except Evonne Johnson.
 - a. The legal authority for closing this portion of the meeting is §44-52.1-12, §44-04-18.1(1), Ch. 23-01.3; and §12-60-16.5, §12-60-16.6.
 - b. Authorize CCHD Administrator to act as directed in Executive Session.

Evonne Johnson exited meeting at 7:57 am.

Next meeting: Wednesday April 26, 2023; 7:30am CCHD conference room

ADJOURNMENT:

With no further business before the Board, the meeting was adjourned at 8:50 am.

Next monthly meeting: Wednesday, April 26th at 7:30 am in the CCHD conference room.

Respectfully submitted,

Dr. Chelsea Traverse, Secretary