

**WILL COUNTY BOARD**  
**PUBLIC HEALTH AND SAFETY**  
**COMMITTEE MEETING**

**MINUTES**

**May 13, 2010**

8:30 a.m.

302 North Chicago Street  
County Board Committee Room  
Joliet IL 60432

**CALL TO ORDER**

Mr. Gould called the meeting to order at 8:35 a.m.

**ROLL CALL**

**Present were Members:** Blackburn, Babich, May, McPhillips, Seiler and Gould.

**Absent were Members:** Konicki.

**Also Present:** Friefeld.

**Present from State's Attorney's Office:** M. Tatroe.

**PLEDGE ALLEGIANCE**

Ms. McPhillips led the Pledge of Allegiance.

**ANNOUNCEMENTS BY THE CHAIRMAN**

**APPROVAL OF MINUTES**

A motion was made by Mr. Babich, second by Ms. McPhillips, to approve the minutes from the April 8, 2010 meeting. All in favor. MOTION CARRIES.

**OLD BUSINESS**

**NEW BUSINESS**

**Sunny Hill Replacement Hires**

A motion was made by Ms. McPhillips, second by Mrs. May, to place the replacement hires for Sunny Hill on the County Board Agenda. All in favor. MOTION CARRIES.

**Request for Increase of Private Pay Rate at Sunny Hill**

Ms. Sorbero stated it has been two years since we have had an increase in the private pay rates. We did an area comparison and are looking for an increase of \$10.00 for skilled care and \$5.00 for intermediate care; most are skilled care. The average age of our residents is 87.6. We estimate this will be an increase of \$153,300. Our rate is basically inclusive versus other units that

charge for incidentals. This will keep us very competitive; we are not above everyone in town. We have from 42 to 50 in private pay; most are in spend down for Medicaid situation.

Mr. Gould commented we have capacity of 238 beds; what was the census last month?

Ms. Sorbero answered 220. We have capacity for 238 but we are probably looking at capacity of 228 at this point; with the needs of the current residents as of today – those needs are always changing.

Mr. Gould indicated the Public Aid cost is \$274.32 per day. How do they reach that amount?

Ms. Haldorson replied they consider staffing costs, overhead costs; we get an elaborate report that takes into consideration all our costs.

Mr. Gould asked how that compares with other county nursing homes.

Ms. Haldorson answered we have not compared cost reports with other homes.

Mr. Gould requested a copy of that report.

Ms. Sorbero stated she would send a copy; just recently you could get cost reports for other nursing homes.

Mrs. May questioned the spend down process.

Ms. Haldorson explained the requirements from Public Aid and what the allowances are.

Ms. McPhillips questioned if the private pay residents get the renovated rooms.

Ms. Sorbero replied we treat all residents the same no matter what the pay source is. Ms. McPhillips asked if the cost report uses just operating costs.

Ms. Sorbero answered renovation costs are included.

Mrs. May questioned the process for the Medicare program.

Ms. Haldorson explained the guidelines the residents have to meet for the federal program.

A motion was made by Mr. Babich, second by Ms. McPhillips, to place a resolution on the County Board Agenda increasing the private pay rates at Sunny Hill, effective July 1, 2010. All in favor.

MOTION CARRIES.

Ms. Sorbero advised the committee about the Nursing Home Reform Act that passed. There was a bill before the House looking for an increase in the bed tax; many nursing homes were housing people with criminal backgrounds and mental illnesses and they were mixing them in with geriatric facilities. The Governor formed a nursing home task force that came up with all these new reforms for nursing homes; one of them was to try to increase the bed tax, which we pay to the state on all 300 beds that we are licensed for. They were going to increase the tax from \$1.50 per day times 300 beds times 365 days per year up to as much as \$6.87 per day; this would have added \$500,000 for Sunny Hill to pay to the state. It would be used for additional IDPH surveyors and other things. The nursing homes went to action; we belong to associations and our lobbyists started working against this. In the

end they took the bed tax out; it does tighten up the criminal background checks, which we already do. Also, if someone comes in with a serious mental illness we would have to be certified as a facility to accept those people, which we are choosing not to be; we are a geriatric facility and want to stay that way. This will also increase minimum staffing levels but Sunny Hill is way above that; it currently is 2.1 and over three years it will go to 3.8; we are already at 6.2. It doubles the IDPH surveyors over the next three years and expands the Illinois mental health programs in the community, which is needed. This stems from when they closed down many places like Tinley Park; many went to nursing homes and they are now mixed in with geriatric patients. We are fine at Sunny Hill. They will go back in November looking how to fund this; they will probably go back to the bed tax. Our legislators did agree it would not be a good thing for nursing homes in Will County.

Ms. Haldorson indicated part of the funding of the bed tax they want to transfer over to a current program that puts people back into their homes.

Mr. Blackburn arrived at this juncture.

**Request to Discuss Issue Involving Public Swimming Facility Ordinance**

Mr. Cicero indicated the IDPH is the state agency that is responsible for issuing licenses to commercial and public pools. Our health department has been involved to act as an agency of the state to monitor these pools in Will County since 1975. We conduct inspections to make sure these pools have all proper operating conditions. Last fall County Board adopted a swimming pool ordinance - September 2009, which allowed us to be able to generate a fee for the work we have been doing on behalf of the state. This allows us to establish an initial fee once per year to do the work. The licensing is handled by the state; there are some new requirements at the federal level that states needed to comply with.

Ms. Bilotta stated on February 3, 2010 the state changed their code, now called the swimming facility code to address changes in federal law. This change requires that swimming pools are equipped with devices that prevented entrapment. The state put out notice back in May 2009 letting the facilities know of these changes so they can get their facilities done so that when the code was changed they are in compliance. Because every pool is so different it is not usually a quick easy fix; every pool has to be evaluated individually and determine what the fix is for that site. The code was changed on February 3, 2010; at that point in time the state said these requirements are now required. There are numerous facilities that have not implemented the changes so we then went to IDPH to confirm that the licenses have expired and to ask what the plan is; if they are issuing licenses or if they are requiring them to shut down. The state indicated they will not issue licenses for people who are not in compliance with the new requirement for anti-entrapment however they will not require them to close. When we passed our ordinance in 2009 one of the sections clearly states it is unlawful

to operate a facility within Will County that does not possess a valid license issued by IDPH. We went back to the state asking for guidance since our ordinance does require a license. We have 131 pools and 11 beaches; at this point 57 licenses have been issued– it appears 85 do not have a license and 56% is due to the entrapment issue.

Mr. Cicero stated our main concern would be any liability on the part of the county. Our ordinance states you cannot operate without a license; the state is saying we will not issue a license but we are not making them close. In discussions yesterday with the state their stance is the licenses have not been denied – they are just pending and have not been issued.

Ms. Bilotta indicated we have a letter that we were going to send to those facilities that do not have a license, providing information from the state. We received a call last night from the state reiterating that according to the administrative procedures act, the licenses have not been denied no one has had a hearing so therefore the licenses are still in limbo and are still valid even though the facilities do not have that piece of paper in front of them.

Mr. Cicero commented their interpretation is that a facility could continue to function until there is an actual denial. There are a couple of options; one may be to have county board issue some type of a resolution that allows some type of grace period until there is a final ruling by the state regarding operations so we are not caught with an ordinance that is not black and white.

Ms. Bilotta stated we have been told when we adopt the state code we also adopted the administrative procedures act; they are basically telling us we do not have the authority.

Mr. Gould indicated basically the state is not enforcing their own rules.

Mrs. May commented she is very uncomfortable allowing children using these pools.

Ms. Bilotta stated we will still continue to do our inspections; we go to the outdoor pools every 2 weeks – the indoor pools every month.

Ms. Seiler arrived at this juncture.

Mr. Cicero indicated the ultimate decision regarding this anti-entrapment device requires an engineer to sign off that they are now in compliance. We do not have that level of expertise. We would be out there looking for any egregious violations.

Ms. Bilotta stated that is why the state has provided a form where the pool could submit in writing that they feel they are in compliance.

Mr. Gould asked Mr. Friefeld if based on the ordinance that was passed by the county last year; does the health department have the authority they need to send out the letter and enforce the ordinance.

Mr. Friefeld expressed concern that the state is saying the health department does not have the authority to close any facilities because of the administrative procedures code. Has the state put this in writing?

Mr. Cicero replied we have asked for that in writing but have not received it.

Mr. Friefeld stated his recommendation is that direction comes from the State's Attorney's Office.

Mrs. Tatroe indicated from a liability perspective there is clearly a provision in tort immunity statute that gives us immunity. The bad situation is where we are getting mixed message from the state so they could not show willful and wanton. The larger issue is the safety of the swimmers.

Ms. McPhillips asked how much the cost to the facility is.

Ms. Bilotta answered we do not know the cost. Each pool is different; it depends on how many features they have. Some have wading pools and a spa. We have to look at each drain to determine what needs to be done; an engineer gets the permit from IDPH.

Mr. Cicero distributed a draft of the letter that officially says they cannot open until they meet the requirements.

Mr. Friefeld asked Mrs. Tatroe to review the letter.

Mrs. Tatroe stated she will look through our ordinance to see what we adopted.

Ms. Bilotta commented we have not provided anything in writing to the pool operators.

Mr. Gould indicated we need to send the letter; you need to get some attention. He would like this reviewed by the State's Attorney's Office.

Mr. Friefeld stated one of the facilities contacted Mr. Moustis regarding this issue. Once many of these pools realize they cannot open, they will be pounding on doors. It is a good idea to have Mrs. Tatroe speak to the state. In the end our ordinance was trying to enforce the state. So if their position is they are in compliance until a future date when they are able to have the hearing; the State's Attorney should be giving that advice to the County Board and the Health Department.

Mr. Cicero stated he will work with the Mrs. Tatroe to get some answers and make sure the language is appropriate; we will get the letter out and continue to dialogue with the state.

### **Other New Business**

### **ADJOURNMENT**

A motion was made by Mr. Babich, second by Mr. Blackburn, to adjourn the meeting at 9:11 a.m. All in favor.

MOTION CARRIES.