Hinckley Public Library District

Board of Trustees Meeting Minutes  
Special Meeting  
October 26, 2020

At 7:02 pm, Karen Yaggie called the meeting to order. Kari McMurtrie, Amie Carey, Arlen Carls, Carol Kohler, Fran Kriesch, and Tom Lang were present.

Comments from the Public

No comments.

New Business

The board discussed the subject of accepting the donation of the Marwaha Building at 142 W. Lincoln. A walk-thru was done this past Saturday, with 4 board members, Rylie, and the doctor attending. Another walk-thru was done on October 14th, with Karen, Tom, a home inspector, and doctor attending.  
  
Rylie followed up on a question previously asked regarding insurance cost, and said Bryce Carey recommended having liability insurance, by adding a second location to the existing policy. The cost would be approximately $400/year. It was not advised to add building insurance until money is put into the building. The estimate based on square footage would be roughly $3,000-$4,000/year.  
  
Rylie reported that the parking lot next to the building is owned by the Village of Hinckley. It has 20 parking spots, and 1 handicapped spot. There are 8 parking spots on the street. There is a small lot behind the building, on the backside of the current gym, which according to records, is owned by Judy Bushnell. Rylie said it’s unknown who uses it, but there could be potential to inquire with the owner and see if employees could park there. According to the inspection, Rylie said the back wall of the addition has some deterioration. Since the additional space isn’t very usable, there would be the potential to tear down that section versus renovating it. This could lead to a possible small parking lot being added in back.  
  
The board discussed the issue of the building being donated as-is, which includes all medical records, equipment, and contents of the inside.   
  
Previously, it was discussed about possibly using a shredding business. Rylie spoke to a company today, but they don’t do on-site shredding. Records are taken away in locked containers. They have HIPAA certification, and give paperwork certifying the destruction of records. Rylie also spoke with someone at Proshred, a company that deals often with medical records. They do on-site shredding, but may not service Hinckley. Kari also spoke with Proshred and found out they don’t check the legality of who owns the records. Kari spoke with a medical/healthcare attorney who said the Library cannot take possession of the medical records, and that the Library could be held liable. She was advised to call the Illinois Department of Professional Regulation (IDFPR) and have a certified letter that the Library contacted them. Rylie spoke with someone at the IDFPR and was advised to shred the records. She also touched base with the Sandwich Police Chief and the Illinois Department of Human Services. Rylie was advised by the Illinois Department of Public Health to follow guidelines of shredding size requirements, and to either hire a company, or see if a local hospital has a shred bin that the records could be added to. They also mentioned burning the records. Kari voiced her opposition to burning anything.   
  
Arlen mentioned a friend who is a retired lawyer suggested a release being signed by the doctor giving permission to shred. Tom commented that his sister is an attorney, and while not in the medical area, she mentioned that patients must be notified prior to destruction of records.  
  
Kari spoke with former doctors, and coworkers, including the Chief HIPAA Medical Officer for Rush Copley Hospital and was told the Library cannot own or shred records. The former doctor owns them and is responsible for them even if he is no longer a doctor. There are Statute of Limitations for what can be destroyed and when. Immunization records can never be shredded. The only people who can own the records are the original doctor, medical record storage, or another doctor (only with permission from patients to have records transferred).  
  
During Kari’s research, she found recommendations that all doctors should have a custodian for their records, similar to “a will.” She also believes that the building is not a gift if the library has to take the medical records. She reported that the States Attorney refused to talk about the situation because they don’t give advice. According to an article that Kari found “The Federal Drug Enforcement Administration’s Chicago office is investigating Marwaha for inappropriately prescribing controlled substances to patients according to the complaint.” She didn’t find anything else on the case, so it’s unknown if the case is open or if it’s been dropped. Kari believes if the case is open, the library has no way to know if any records contained in the building could be related to it.  
  
Kari voiced her concern that patients might look at some point for their records, which would be a negative thing if the library had the responsibility of shredding them. She was advised to not go in the building, as she knows the records aren’t being stored properly right now, and she doesn’t want to be tied in any way to the medical records in case the library makes the decision to take possession of them. Kari made note that the doctor voluntarily surrendered his license and believes there could be a reason he’s trying to get rid of them. The doctor needs to take them and is already violating HIPAA with the way they are currently being stored.   
  
Kari said patients should be offered their records. She wanted to do the extra research out of concern that this situation could possibly affect her Nursing License if there is a legal issue because of it. Karen asked if the library took custody of the records, if they could be put in storage. Kari stated that the library cannot be in possession of the records, as it’s not allowed legally by law. Kari has a call into IDFPR to verify if it could affect her nursing license, but hasn’t heard back yet.   
  
The board agreed and noted that the information Rylie and Kari found out don’t match and are conflicting. Rylie reported that the Illinois Department of Public Health said to shred the records and that they wouldn’t regulate the records the library has because they aren’t a group regulated by HIPAA. Kari commented that just because the library isn’t regulated by HIPAA, it doesn’t mean that the library could destroy records and not get in trouble.

It was mentioned by Kari that some don’t realize what all is considered part of a medical record. It includes appointment books, messages, emails, X-Rays, medicine bottles, calendars, and more. Karen agreed. Kari believes the doctor knows this, but the question is whether he cares. Kari said if the doctor took the medical records, prescriptions, prescription pads, and all that legally falls under the definition of medical records, then she could consider the other merits for the possibility of the library accepting the building donation.   
  
An article written by The American Health Information Management Association was mentioned by Kari. It said “If the facility or medical practice is sold to a non-healthcare entity, patient records should not be included in the assets for purchase. The provider should make arrangements to transfer the records to an archive facility or another provider that agrees to accept responsibility for maintaining them.” She also mentioned the article says “In the event of a facility closure or dissolution without sale the original provider is responsible for ensuring the final disposition of health records, which may include safely storing the records for an appropriate length of time.”

From her research, Kari also said that per Illinois Law, even when records are destroyed, a log of inclusion dates covered must be retained. There isn’t a set law in Illinois but it’s recommended to keep records in general for a minimum of 10 years, which wouldn’t even be yet with when the doctor’s practice closed down. Fran voiced that she appreciates all the research Kari has done.

Rylie put a call into IDFPR on Friday to inquire about a certified letter with permission to destroy records. Kari said she would like a certified letter from IDFPR because they are ultimately in charge. A certified letter would ensure that it’s not just a letter from a secretary who has no authority. Karen agreed that they are the only governing body that can be trusted with this.

Amie said this is a hurdle that needs to be figured out, and wondered if the board could tell the doctor that the library wants no part in the records. Karen mentioned that the wall hasn’t been put up yet, and maybe to have him take the responsibility. Amie said there are other things to consider, such as pros and cons (Kari agreed), and what is everyone’s feelings if the board could get past this hurdle.

The board discussed the “Pros” of accepting the building donation. There’s lots of potential, it’s a single-level building, in a central location with lots of natural light. The building was originally a large open room when constructed as a furniture store, and the renovations to return to that may be more simple versus load-bearing walls. Fran commented that the entrance is charming. Rylie made note that the building is 6,000 square-feet, there’s security in having a single entrance, it’s handicapped accessible, and has no obvious issues with flooding or leaking. It would be easy to hire a medical auction company (Amie agreed, after getting past the hurdle with the medical records). Rylie said the library currently has $144,000 in a building fund, and the board can determine the timeline. It can be spread across multiple fiscal years. Karen agreed that it doesn’t have to all be done at once. Rylie commented that the biggest complaint by people right now is the amount of noise from upstairs at the library’s current location, and that any quiet space would be a huge benefit. There could be energy efficiency grants for lighting and possibly even windows.  
  
Karen made points that there’s endless ideas for extra space, and no basement to deal with. Kari mentioned it being a benefit of having no landlord, and no upstairs noise. Carol said there are grants that could help fund renovations, and there would be the potential of having conference rooms, children’s story time space, and Amie commented that a couple study rooms would be beneficial. Amie said that many people probably don’t know where the library is, and that being visible, on the main street, and on the right side of the street, would have benefits. Amie believes the library will need more space at some point, and that this is a rare opportunity that may never happen again. If the board can get past other roadblocks, that yes, it may be a leap of faith, but to look at the vision for the library. Amie also said this would bring community volunteer opportunities to help the bottom line and bring the community together. Karen agreed that while it would be a lot of work, that there are many interested community-minded people who would want to help.

The board discussed the “Cons” of accepting the building donation. This includes the above noted discussion about the medical records. Potential cost of renovation may be a con, along with the need for a possible capital campaign. Amie asked what it would really take to get where the board wants to go financially speaking. Rylie commented that the flooring is unknown, and that if it isn’t a slab, it could be very costly due to the high weight limits that library floors require. She also has concern over what will happen to the current building and what that would mean for the community. The ceiling may not be tall enough but if it’s getting re-done it wouldn’t be a huge concern. The current drop ceiling is 8 feet, and there’s a couple more feet in between that and the rafters. Karen mentioned the concern of unknown and hidden costs, and Kari said it would be hard to commit with these unknown costs. The question was also raised of how difficult would it be to sell the building if the board changed their minds.

Fran asked how the board can approach the question of how the library can afford the renovation, and if it’s more of a leap of faith to take. Karen commented about getting quotes, and that if more money was needed, a loan could be needed. Rylie said that it would possibly be a bond issue referendum. While it doesn’t really raise taxes, it is still a taxpayer question. Tom said he believes it would be an easy sell but that it’s not for sure.

Tom asked Rylie about current utilities that the library pays. Rylie said they are currently split between the library and Squaw Grove Township. Karen said that according to the doctor, current carrying costs for utilities has been approximately $400/month with paying the minimums for water.  
  
The board discussed additional follow-up questions. It was asked if a title search should be done. While Rylie mentioned the building is in a trust, Tom agreed that the board should be thorough and make sure there are no liens on equipment. Other questions included what else would have to be done for ADA compliance, and potential moving costs. Karen wondered about any work needing to be done with electrical, plumbing, HVAC, roof, floor, windows, and the cost to bring the building up to code. Rylie said that the board has the time to get the right permits and bring the building up to code. Karen asked if the library could make money if it rented portions of the building out. Rylie said if a piece was rented out, that piece would be required to pay property tax. If the library uses the space, it doesn’t have to pay property taxes. Arlen stated that not much was on his list and that until the medical records situation is dealt with, there isn’t much to do. Karen said she is thinking of reaching out to Stacey Ries, representative council for Rush Copley, for possible insight regarding the situation.   
  
Tom raised the question on if money in the building fund could be used for acquisition of the building. He asked about the idea of the board offering the doctor a non-refundable $2,000 earnest deposit, with the contract detailing everything, to help remove the liability. Karen said she thinks it could be fine, but said that the doctor mentioned not needing any money. She is not sure that it’s about the money. Kari questioned whether it would be ethical to give him money to shred the records since the board has no way of knowing if he would do it legally. Kari said it would be beneficial to speak with a medical attorney.

The board agreed all roads lead back to the doctor, and that maybe he would work with the board. Karen mentioned that it’s concerning he won’t take the medical records and that it could be setting up the library for failure. Fran wondered if maybe his perception would change some on the subject and that he could help the board, and the board could help him. There was curiosity of what the doctor will do with the building once the deadline of December 31st passes.

Kari said she believes everyone has a right to make their own individual decisions. She said there would be no hard feelings, but that she would step away to protect her nursing license if the library board chooses to go forward with taking the medical records.

When discussing next steps, Rylie asked the board if they should wait to hear from IDFPR. Amie voiced the uncertainty of when they would hear back. Kari said even if they heard back from them and they said yes, it’s unknown when/if a certified letter would be received. Kari asked Rylie if the state calls back, to inquire about the X-Ray machines that are still in the building because the state regulates them.  
  
Rylie said that she went through the 146 page building plan from 2008, and that it is still relevant. She said her first call if the board chooses to move forward would be to Fred Schlipf. He wrote the building plan, wrote books on library buildings, and teaches master classes. Then, the board would interview architects and see a plan of what the building could be. Construction quotes could then be received. Rylie said there is no way this can all be done before the end of the year, and that the board won’t know costs before taking possession of the building.   
  
Karen will contact the doctor via phone, and Rylie will listen in. The board agreed that the doctor should know they are very interested and thankful, but given the conflicting information on the potential liability with the medical records, that it would not be in the best interest to take possession of the building with the records. The board would like to see if there’s any movement with him and approach with the question of him removing the records.

Other Business  
   
 No other business.  
  
 At 8:44 pm, Karen Yaggie adjourned the meeting.