

Transcript of the December 18, 2020 Continuing Care Retirement Communities (CCRC) Council

Mark Hennessey: Good morning. We're here today for a meeting of the continuing care retirement community councilman. I'm Mark Hennessey, the Chair of the council. I would like to call to order the meeting of the CCRC council. And welcome, everyone. A couple of reminders. This meeting is subject to open meeting law and is broadcast over the internet, webcast or accessed at the Department of Health website, which is www.health.ny.gov. The On Demand webcast will be available no later than seven days after the meeting for a minimum of thirty days, and then a copy will be retained by the department for a month. There are some suggestions and ground rules to help make this a successful meeting. Since this is a virtual meeting, we ask that everyone keep their microphones on mute unless you're speaking. I'm going to do that as soon as I'm finished here. Because there is synchronized captioning, it is also important that people do not talk over each other. Captioning cannot be done correctly with two people speaking at the same time, so please refrain from doing that.

It would be helpful if we all spoke one time, as I mentioned, if council members wish to speak, please raise your hand on camera to get my attention, appreciate that. I'll keep my eyes out for anybody whose hand goes up and will try to call upon you in the order that your hand was raised. When called upon, you can unmute your microphone and please remute it when you're finished. We ask that when you speak, please state your name and briefly identify yourself as a council member, staff person or representative of another entity. I also want to remind people that the microphones are, when they're unmuted, are hot, which means that everything you say will be picked up and recorded in the webcast. It means things like shuffling a paper and background noise will be picked up as well. The department has been collecting written public comment via email and a link on the webcast, both in advance and during the beginning portion of this meeting. All public comments must be submitted prior to the public comment period on the agenda, which we expect to get to shortly. So, please submit them now if you have not already done so. Comments submitted should include the name and email address of the commenter. Though we are collecting this public comment through virtual methods, please note that just like public in-person meetings, comments are limited to one per commenter and should be focused on the meeting agenda items. Public comments that meet these guidelines will be read into the public record during this meeting. As a reminder, there is a form that needs to be filled out for those who file public comments, as required by the Joint Commission on Public Ethics in accordance with the Executive Law, Section 166. The form is also posted on the department of health's website, which again is www.health.ny.gov. In the future, you can complete the form prior to the council meetings. And I want to thank you for your cooperation, fulfilling our duties as prescribed by law.

The first agenda item is the approval of the transcript from the November 6, 2020 meeting. The transcript from the last meeting, the council was distributed council members prior to this meeting. The transcript contains the discussions that we had then and will serve as the minutes for the council meeting as authorized by the council's bylaws.

Before I make a motion to adopt the transcript, does anyone have any additions or changes that they would like to be considered?

Okay.

At this point, I will make a motion on the adoption of the transcript from the November 6th, 2020 meeting to serve as the minutes for the CCRC council meeting.

May I have a second?

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Second by Council member Davis, thank you.

Any discussion?

All in favor, say aye.

All Council Members: Aye.

Any opposed?

Any abstentions?

Okay, thank you.

That motion carries.

Next agenda item is a public comment period.

I'll now ask the department health staff to read into the record public comment that has been received. The department has been monitoring the public comments, and I now ask her to read them onto the record.

Lynn Baniak: Okay, we have two public comments.

The first is from Gregory Thornton. My name is Gregory Thornton. I am an attorney and am retired from the New York State Courts. My mother has been a resident of Glen Arden since 2004. She has been a resident of the health care center since 2012. During Mr. Heeran's presentation of November 6, 2020, at the last meeting of the CCRC Council, he related that on September 15th, 2020, Glen Arden received approximately thirty eight thousand to thirty nine thousand from Elant Inc, representing the net proceeds of the sale of assets by Elant Inc. Mr. Heeran further stated that Elant had previously represented to the Department of Health that the value of those assets was three to five million dollars. I think the residents of Glen Arden and their families are owed an explanation of what and how the net value of those assets were misrepresented and where the money went from the sale of the assets. If the monies went to satisfy liabilities unknown to New York's regulatory agencies, I think the fact, that fact should be made known. I further request that this matter be referred to the office of the attorney general of the state of New York for investigation and such further action as she may deem advisable. It may be that Glen Arden Inc has some remedy at law to recover funds.

And I just want to note that I did remove his mother's name. It was withheld due to confidentiality requirements.

The next comment that I have is actually a question, and it comes from Darlene Jackson.

Dear members of the council, I am a resident, Darlene Jackson. And my comment is a question. What protection do we have that our contract signed in good faith will be protected, as we have no voice in the decisions being made, the stress has affected our health. I look forward to an end of the delays. Darlene Jackson.

And that is all.

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Mark Hennessey: Thank you very much.

Does any member of the council wish to raise a question or comment on the public comments received?

Okay, hearing none, I will move on to the next agenda item.

The next agenda item is the report to the Council on Glen Arden CCRC. We're going to get an update to what we heard on November 6th, meeting. Donna Cornell of the Glen Arden Inc. board of directors and Beth Goldstein of Bethel Communities Management, also known as BCM, if you hear that later on in the meeting, manager for Glen Arden CCRC indicated they would return to the CCRC council and provide us with an update on their efforts in working together to identify a path forward for Glen Arden, CCRC. Both parties are here today to provide us with that update. Before they do, Michael Heeran of the Department of Health has requested to address the council.

Mr. Heeran.

Michael Heeran: Hello. I just wanted to take a quick moment before we hear from Beth and Donna on their progress to let everybody know we've been working with them diligently, the Department, to monitor the progress prior to the council meeting. And the progress is ongoing, remains ongoing as we speak. We are still getting materials. We also wanted to talk to the council briefly and let them know that this has been a process with all parties where we've looked at multiple options here. We've done, looked at things like receiverships and caretakers and board substitution and all sorts of options. Keeping in mind that, you know, we want to keep the facility open and working for the residents that live there. As I noted in my presentation last time, the transfer to a new operator, which was the ultimate goal here by the parties, was a path that was legally difficult. And I believe what you're about to hear is progress that has been made about a stabilization plan to address the critical issues that need to be taken care of prior to such a transfer. And I wanted everybody to know that, you know, we're doing these conversations. All parties recognize that there are one hundred and twenty-two residents who live at the CCRC. It is their home. And we also in developing and working with the plan and operator, and BCM recognize that, you know, there are people owed refunds under the law, that there's vendors and there's creditors. And we hope that this, the elements of the plan you're going to hear will adequately address those people and those concerns. And that will help, ultimately help the transfer be achieved. I just going to ask the council, because I'm going to address the Chair, so let me come back to the council after you've asked all your questions of Beth and Donna to ask a few questions of you to help us, the department complete our review of this plan and the material, so I will be coming back to you afterwards. But I will ask you to think about as you listen to Donna and Beth speak, think about things like how we can measure the progress of this plan, what type of reporting should be required to the council and the departments, and what type of things should be included in disclosure to prospective residents if they resume marketing. So, those are the types of things I would ask you to kind of keep in mind as you listen to what you're about to hear, and I'll talk to you again after they've had a chance to present the materials and you've asked your questions. Thank you.

Mark Hennessey: Thank you, Mr. Heeran.

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So, I'd like to now ask Don Cornell from the Glen Arden board of directors to unmute to initiate the update on Glen Arden CCRC, and I welcome her to invite Beth Goldstein of BCM or other representatives to weigh in as needed during the presentation. Ms. Cornell.

Donna Cornell: Good morning, everyone. To reiterate and restate what Mr. Herron said, yes, we have been working diligently with regulatory agencies and representatives of BCM, as well as their legal counsel and our legal counsel, who, one of whom is on the call this morning, Mr. Protter. But I believe that Beth Goldstein and her staff have the summary that they can more effectively give than I can, so I'm going to defer to her right now on this call.

Beth Goldstein: Thank you, Donna.

So, we have been working along with Donna and her attorney, Mr. Prodder, along with our attorney, Kristina Wesch, to come up with a stabilization plan. Originally, we had talked about Glen Arden perhaps having to pursue a bankruptcy in order to have a stabilization. And upon the cooperation of the board and all the parties, we came up with a stabilization plan over the next six to nine months that would allow the community, should the council lift the suspension and allow Glen Arden to market and have move ins to stabilize the community over the next six to nine months, which is the path that we were on going into the unfortunate situation that occurred in September, that we have moved on from and are now communicating and able to achieve certain goals based on enhanced communication, which will allow for the continued stabilization of the community that we were on our way towards over the last, I'd say, nine to eleven months in being the manager. So, we have come up with a budget that allows for stabilization. We have had, Donna, you may want to talk about the conversations we've had with the bondholders and the trustee to aid in that stabilization.

Donna Cornell: Okay. Mr. Protter is on the phone, and I on the call. Howard, if you would like to share a summary of basically the conversation we have been having with the bond holders and the suggested plan we have been authorized to share with you by them that this is the potential proposal. They don't have full signoff because, yet because it happened, it's very quickly. Everything's in a window. And so, but they authorized us to share these details.

Howard.

Howard Protter: Yes. Thank you, Donna.

Yes, for the board information, the bondholders have agreed to---

Mark Hennessey: Sir?

Howard Protter: Yes.

Mark Hennessey: Could you just identify what organization you work for, if you don't mind for the record.

Howard Protter: Sure.

Mark Hennessey: That would be helpful.

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Howard Protter: Howard Protter, I'm with the law firm of Jacobowitz and Gubits, 158 Orange Avenue, Walton, New York, and I represent Glen Arden, Inc.

As I was--.

Mark Hennessey: Thank you.

Howard Protter: You're welcome.

As I was saying, we've had conversations with the bond holders attorneys, the trustee for the bond holders, and UMB principal bond holders and they've done two things. First, they have rescinded a call that was due in January, which would have required payment of one million, one hundred ninety thousand dollars, so that call has been rescinded. That's not going to be happening. Secondly, we've been in discussions about deferral of all payments of principal and interest for a period of time. And that deferral we're talking about six months, nine months or to a year. And that deferral is represented in the cash flow analysis that's been presented to you. Those deferrals have not yet been finalized. We have entered into nondisclosure agreements with them so that the communications can proceed, and we expect to have a deferral agreement from them either at the end of business today or early next week.

Beth Goldstein: So with that occurring, as Mr. Protter has said, we did submit a cash flow that does put that condition in place where we would not be paying principal and interest going forward for a period of six to nine months, possibly a year. We have also submitted a revised disclosure statement that should the ban be lifted, we would be able to market and have people move in, and they would sign a revised disclosure statement which would talk about the current management and stabilization plan. And the goal of the stabilization plan is for ultimate acquisition and transfer to a new operator. With that would allow during the stabilization process, is for due diligence to be done and appraisals to happen, so that acquisition terms and possibilities can be explored and negotiated. The disclosure statement would also provide for protection that the entrance fee monies would be put into a segregated entrance fee account that would be held for ninety days, as per the disclosure statement and the residency agreements and post ninety days, which is the rescission period in the residency agreement, there would be a release signed that those residents want to continue to live at Glen Arden and that their rescission period has ended. And then those funds would be released on a rolling basis per the ninety day move ins. And that's really all we have, so the, you know, we're willing to talk about in the transition plan, we were general. We talked about reporting, monitoring, enhanced monitoring, perhaps monthly meetings to compare what we had, what we had proposed against actual performance benchmarks and see where we are in the transition plan and stabilization plan and move forward accordingly over the next six to nine months.

Donna Cornell: And I'd like to add one more thing, please, and that is that there are two members on the side of the board here today, but there is full dialogue with our board, full sharing of information when necessary. We have a meeting and secured the necessary resolutions, motions, et cetera. Mr. Ernenwein is in court today. As an attorney, he's in court today. And as I indicated earlier, Mrs. Calhoun is on the West Coast, and just with a husband in the 80's, this is just too early for her to participate. Not that she doesn't want to, but she's just not physically capable of doing so, but we have full support of the board. That's all.

Mark Hennessey: Thank you.

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Does anyone from the council have questions related to the information that was just presented?

Unfortunately, something is not quite working with my video, so I will. Just verbally, does anyone have any questions for either Glen Arden or BCM?

Jim Davis: Mark, this is Jim Davis, Council member Davis.

Mark Hennessey: Council member, Davis, please.

Jim Davis: I did raise my hand, just to let you know.

Mark Hennessey: Sorry, something's up with my video. Keep going. Sorry.

Jim Davis: So thank you, Beth and Howard, and particularly to Donna as a voluntary board member, is giving her time freely here to participate in this. And we, I certainly, as a provider, appreciate your doing that I know it can be stressful, and that's level of service is appreciated, I'm sure, by all of us.

Just a couple of questions. The, are there any other covenants that you'll be missing with the bondholders that are wrapped into the deferral or what I'll call a forbearance period?

Howard Protter: We haven't talked about any others. They haven't brought up any others, but as you know, the devil's in the details and that's why we're waiting for the deferral agreement. So, once we see that, we'll be in a better position to advise the council on that.

Jim Davis: Okay, thank you.

Are there any refunds that are due to residents that you cannot pay? And how does your operating budget now stand? Do you have a surplus? Do you have a surplus or deficit? So two questions, refund obligations and operating revenues and expenses.

Beth Goldstein: So, the cash flow that was submitted, there are refund obligations that are due, some are past due and some will be coming due in 2021, so we will be working out payment arrangements based. The plan calls for working out payment arrangements for the refunds due to get them paid over the next year as anticipated through 2021.

Jim Davis: You think you'll be able to meet those obligations as they're statutorily required and required by the residency agreement?

Beth Goldstein: We will be arranging payment agreements to meet those requirements, correct. So, they may not be exactly. Some are already overdue, the year has passed. And, but within 2021, we hope to bring all of those current and paid.

Jim Davis: And have you talk to those family members waiting for their refunds about that, have they been accepting of it?

Beth Goldstein: Yes. Letters have gone out to them. We've been in constant contact with them.

Jim Davis: Good.

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And my last question is ultimately, of course, as with any CCRC, sales is the key to future success. Do you think the ninety-day escrow period is sufficient to encourage, to give people the comfort that their money is not at risk?

Beth Goldstein: Based on the cash flow that we have projected and the history of sales as they have been going even through the pandemic, when, since we've taken over and the number of people waiting to hear the suspension be lifted, we are hoping for a net of one move in a month and with that, yes, they would be sufficient cash flow to assure them that a stabilization plan will be occurring over the next year.

Jim Davis: Okay, that's fine.

Those are, those are my questions, Mr. Hennessey.

Mark Hennessey: Any other council members?

Wayne Kaplan: Yeah.

Just so I understand, from thirty thousand foot view is the idea, number one, you served notice of termination back in October, that it was going to expire on December 31st, so is that null and void or is that being suspended or extended or?

Beth Goldstein: We've agreed to extend it to January 31st, and then we've agreed in the transition/ stabilization plan to extend it six months, and then another three months, and then continue to extend it as needed as we continue to work through the details, and as long as communication continues to be happening the way that it has been.

Wayne Kaplan: And the ultimate idea here is to stabilize the community and then sell it.

Is that correct?

Beth Goldstein: Stabilize hopefully for BCM to enter into an acquisition, correct.

Wayne Kaplan: So that BCM can acquire it or some third party?

Beth Goldstein: At the moment, we would hope to be able to acquire it.

Wayne Kaplan: And you've been managing this community for a few months now, right?

Beth Goldstein: Since December of 2019.

Wayne Kaplan: So a year, okay.

What's going to be different going forward than has been taking place the past year, notwithstanding, I know COVID hit everybody, has knocked everybody off their, you know, game.

Beth Goldstein: Well, things were going very well. The, what occurred was the board went dormant and the money that were expected to be there to pay the entrance fee refunds did not come in. So, operationally, the facility was doing well. BCM came in, and under a management service agreement, did everything that we said we would. We

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achieved efficiencies. We made the appropriate changes and cuts. And operationally, the facility was doing well, but didn't have the money to start paying back refunds. In starting July, we couldn't pay refunds anymore and we were expecting money to come in to be able to pay those even through payment plans that we had hoped to arrange. So, when I say, you know, September was unfortunately the month that everything stopped was because the, there was no money coming in with the entrance fee refund, so that was an issue. We had to come to some agreement on those and figure out how that was going to get paid. And also the board went dormant and we had to, we had nobody to communicate with. And we are just the manager, not the operator, so we didn't have an active operator to continue stabilizing and continue towards talks about what stabilization plan would be and what possible acquisition opportunities would be. Because the original goal of the management services agreement was stabilization to acquisition to a change in operator.

Wayne Kaplan: Thank you.

Mark Hennessey: Are there other council members with questions right now?

Jennifer Allinson: Yes, Council woman Allinson has a question.

Beth, moments ago, you talked about setting up new or establishing monthly reporting requirements or monthly meetings and enhanced monitoring and setting benchmarks, can you go into detail more about what that will entail? And are you working with DFS to, you know, coordinate that disclosure?

Beth Goldstein: I'm sorry, I'm trying to get the sun from coming in.

We have, we've been talking on the surface as to, you know, types of things that we could do, you know, certainly monthly meetings to go over budget versus actual, talk about how the progress is going as far as our due diligence, so that's how, what I foresee as being, you know, the monitoring that would occur on a month to month basis.

Jennifer Allinson: And will you and I, I guess will you be also working with Glen Arden's board in connection with that, or is that not necessary moving forward with the operations as you guys continue on?

Beth Goldstein: Everything we talk about is in conjunction with Glen Arden and the board. The board is still the operator, we are just the manager, so it would require board approval, certain things, expenditures over a certain amount of money, certain negotiations that are over a certain dollar amount would require board approval, certain negotiations would require board approval. So, again, it's us working with the operator as their manager to get through this.

Donna Cornell: And this is Donna, to respond to that further, let me confirm that that's the path that we see. We did run into a stumbling block in September, that's been resolved, that's yesterday's history. Going forward, we've been actively involved and continue to be actively involved and want to see this through to the right conclusion for everybody. So, yes, we will be involved. You have my commitment.

Jennifer Allinson: Thank you, Donna.

Is this information shared with DFS? Is DFS part of these meetings in any way that'll happen on a monthly basis?

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Kristina Wesch: This is Kristina, I'm counsel for the BCM, and I'm going to jump in. For the record, Kristina.

And so the idea is that.

Mark Hennessey: I'm sorry, could you please just state what firm you work for, please?

Kristina Wesch: Kristina Wesch, Herrick Feinstein, 2 Park Avenue, New York, New York 10016.

Mark Hennessey: Thank you.

Kristina Wesch: Thank you.

So, the idea is that an operator, representative and BCM will report on monthly telephone conferences to both the Department of Health and the Department of Financial Services. And the reporting will include financial operations, changes and financial position, revenues, expenses, liquidity updates on personnel, services delivered, updates on occupancy of all three of the independent living units, skilled nursing beds and enriched housing units, and update on marketing and sales activities, progress regarding the renegotiation of major liabilities, such as major vendor liabilities that are currently owed, the entrance fee refunds that we've discussed, and the status of existing litigations, and anything else that might come up that, you know, we currently don't know enough about to list. And then also an update on where we are in terms of solidifying a transition plan, whether it's to BCM or a third party.

Jennifer Allinson: Thank you all, appreciate it.

Mark Hennessey: Are there any other council members with question?

Okay, I have one question I'd just like to ask. So, could you all talk to me about what level of consultation has taken place with the Glen Arden Resident Council, and how they are involved in this discussion?

Beth Goldstein: There were, there was a meeting held, there were two meetings, appears to be small group meetings because of COVID, so we couldn't have too many people where we explained to the residents what was happening. Mary Jane Sorrell was there, she is a board member, as well as the Vice President of the GARA Association. And we had meetings explaining what was happening, that we had submitted our termination notice and why that occurred and that we were hopeful that we could work through a plan to stop that from happening and to help the community and that the community's success and that their homes being saved was our ultimate goal. And then I did send a note out, I think that the 4th of December updating them, that we did extend our management agreement through the end of January, and that we were working on a transition plan. We were in communication with the board, the board and BCM were working well together and that we hoped to have a plan that would continue our management into 2021, and stabilize the community.

Mark Hennessey: Okay, so that's the account, the resident council and the residents themselves, have they been kept apprised of all this?

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Beth Goldstein: That was the resident.

Mark Hennessey: Okay, okay.

Beth Goldstein: Yeah.

Mark Hennessey: So all right, all right, you know, the one thing I would ask, and this is not a question, it's the statement. I just, you know, making sure that residents are kept apprised of how things are going and getting their input and feedback is, I think it's really helpful. You know, I know that, I know that, that's something you're attempting to do and we appreciate it, but anything you can do to amplify that, continue that, make that, you know, a major priority, we'd really appreciate, okay? I know you absolutely believe that the residents lives and their domicile and everything that's going on with them is important. And I know, I've seen evidence of you guys taking that very seriously, so I appreciate that. Anything you do to make sure those communications continue is something I think we'd really deeply appreciate, okay? So, thank you.

At this point, I just want to, I'll give one last chance if any of the council members want to ask any questions?

Jennifer Allinson: Council member Allanson has one follow up question.

So, the continuation agreement goes through January 31st of 2021, since we're approaching January swiftly, well, is that the plan to just extend it out for another, you know, sixty, ninety days, or, you know, I guess where is that organization's progress on continuing that agreement post January 31st of 2021?

Beth Goldstein: Part of the transition plan submitted was extending that six months and then an additional three months.

Jennifer Allinson: Okay.

Beth Goldstein: And I just want to add that, you know, we do have right now three people waiting to move in with bated breath, they're just waiting to hear when they will be able to do that and settle on their contracts and move in. And we do have about five other people who were very hot leads over the last six months. And they also are waiting to hear because they would like to move in, in the first quarter of 2021.

Mark Hennessey: Okay, thank you. I don't think there's any more council member questions. I know Mr. Heeran would once again like to address the council.

So, Mr. Heeran.

Michael Heeran: Hello, again.

I just wanted to provide now that you've heard the framework of the plan. I just wanted to brief the council on where we are with the elements of the plan and what's under review and what's been submitted. So, there's been a flurry of activity. Parties have been working very hard to get us materials. But I wanted the council to be aware that most of these materials have just recently been submitted and are required to be reviewed. We have still to review the financial plan that has been submitted. We need contract addendums to reflect the ninety day protection that's going to be offered to the new residents. We really

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want to look over the disclosure statement revisions that have just been submitted. We have concerns and we want to make sure that all new residents are aware of the facts, as required under Article 4613 and 4606, public health law. There has to be an addendum to the management services agreement to accommodate this new plan and the rules in the plan, and I believe that has been submitted, but it needs to be reviewed. And again, I mentioned the financial plan. So I wanted the council to be aware that those materials are in the process of being submitted. They do require review. We will review them. If we do wish to get some input on things that have been mentioned, I think, by the Council of very well as far as frequency of reporting, reporting, and we would like some transparency on that reporting, reporting back to the council, like the type of frequency of reporting the council would like to see, reporting anything, as the Chairman, Mr. Hennessy said to the residents and the families and the stakeholders, we would like that as well. And we're working to try to set milestones and deliverables that can be clearly measured to show progress on a monthly basis, at least towards the what is in the plan, what's built into the plan as far as assumptions to make sure they're on target. We want this plan to succeed and we need to monitor this plan to make sure to succeeding.

So, those are the things we're working on right now. If the council has any further input on those, you know, we would appreciate it as we do our review. We are still, I will add, because it was mentioned they're still under a temporary suspension. That was actually, it's actually the departments, and I can defer to Marthe if needed to want to speak. That's the department's temporary suspension and is not the council, the council affirmed it, but it was not their actions. So, we do need to review all these materials, approve them. They would be required to be approved before they continue marketing because they are part of the plan they can implement the plan to sell the materials are approved, that's part of the requirements of under regulation or law. So, that's kind of where we stand. So, I don't know if there's any questions or anybody who has additional comments to offer for or the department for guidance as we do our review, especially related to the frequency of reporting you would like to see or see done so, and also anything on disclosure.

Mark Hennessey: So just to clarify, Mr. Heeran, you're looking for input from the council on any metrics, milestones, deliverables to be used in evaluating the progress, right, that's what you're looking for from the council?

Michael Heeran: Anything the council would think they would like to see. If the council wants reporting back to them as we do our review and put the requirements on, we just want to keep in mind if the council would like any reporting back to them or, as you suggested, reporting to stakeholders if there's any input or suggestions on for us to consider and think about when we do that on the format, the frequency and the type of milestones and metrics. And I'll give some examples to help. You know, we're really trying to narrow down the assumptions built into the financial stabilization plan. So, you know, achieving things by a certain date, hitting certain sales and moving targets, things of that nature, monitor them against the budget. Explaining variances, that kind of thing. We're hopeful to put that in place on a monthly basis. And if that's, you know, something the council would like to see, they can let us know.

Mark Hennessey: Okay, so will entertain any suggestions from council members.

And again, I can't see your hands, I apologize, so I'm just going to ask that folks unmute yourself and speak one at a time.

Wayne Kaplan: Thanks. Council member Kaplin.

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Mark Hennessey: Go ahead.

Wayne Kaplan: Is it still a fact that the ban on marketing and accepting new admissions is still in place?

Michael Heeran: I'll speak first, but I can defer to our legal counsel and should be on this as well.

Yes, the temporary suspension issued by the Department of Health is still in effect.

Wayne Kaplan: So, in order for this community to stabilize and, you know, hopefully reach profitability or the ability for the sale to occur, the band is going to have to be lifted sooner or later, otherwise, you know, it's going to keep getting deeper into the hole, deeper into the hole. So, when do we think that band will be lifted, so that they can start marketing and accepting new residents?

Michael Heeran: As part of the stabilization plan, we would not continue the ban, with band right now, the bigger barrier to the up front is a review of the materials required to be used in marketing. So, they need a new disclosure statement. The disclosure statement they have is not acceptable under regulation and law. It needs to be revised. So, that has to be reviewed and approved to start marketing. New residents can't sign. They're going to need a contract addendum to be passed under regulation be reviewed and approved by the departments for the ninety-day protection that's actually has to be done through an addendum. So, there's specific elements of the plan itself, the financial portion of it as well, that still have to be reviewed and approved. So, as part of all that process, once those elements are reviewed, approved, they would be approved to market. They could use them in marketing and marketing would resume.

Beth Goldstein: What Mike is saying has been discussed. We did--.

Mark Hennessey: Hold on a second, just one second, please.

So, council member, are you okay to go on to responding to questions the comments from BCM?

Wayne Kaplan: Are you asking me, Mark?

Mark Hennessey: Yep.

Wayne Kaplan: Well, I was just going to follow up with a question, which I think Beth was probably about to start answering, is.

When all of these new submissions take place, so the ban on marketing and admissions can be lifted?

Beth Goldstein: So those submissions were submitted yesterday evening. Revised disclosure statement was submitted, and the cash flows were submitted, and the stabilization plan was submitted the beginning of this week. And as I said, the disclosure statement, along with the changes that were requested, of course, I know it has to be reviewed and commented on and probably tweaked, but the blueprint for that was submitted yesterday evening.

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Michael Heeran: And I will acknowledge for you, Wayne, that we still are getting the documents, like I said as we speak last night and today, but we do require due diligence here. The departments have the responsibility under regulation of law to review these documents and we will do so. We will try to do so as expeditiously as possible, realizing that this is a critical, these are critical elements of the plan and we'll get everything in shape, so all that. <<video froze>>

Again, recognizing that part of the plan, destabilization plan requires the resumption of marketing, marketing will be allowed to resume. We do have concerns about the use of the new entrance fees collected once they come off of escrow. And we're working with the parties to make sure we can monitor the use of those funds, you know, where that money goes and what issues for when it comes off of ninety-day escrow and making sure those monies are used to pay some of entrance fee refunds due.

Wayne Kaplan: You froze and broke up a little bit.

Michael Heeran: Sorry.

Wayne Kaplan: I'm sorry, you frozen and broke up a little bit. I didn't hear everything you said.

If all these documents were resubmitted in the past few days or whatever it is, when do you think the department will be able to review everything and prove everything or ask for more whatever they might need? Is there any kind of deadline on it, because I know the department doesn't always work too quickly.

Michael Heeran: We are, we will review them as expeditiously as possible. And we'll work, we understand the importance. We understand that marketing is part of this stabilization plan. We have to do our requirements under the reg and the law to review them. And we just, we had a lot of material dumped on us this week, but we've been dedicating resources to do that. And we will work with the operator and asked them to let them know the status of our review. The, they hopefully will be responsive and what our questions for them are on quickly. We'll get this done as soon as we can.

Wayne Kaplan: Thank you.

Tracy Raleigh: This is Tracy Raleigh from the Department, just to, and Council member Kaplan, just to echo. You know, we have been spending significant time iterating and as you can see, you know, all parties now are aligned. And I think that's very positive. I do want to say also that the key factor in evaluation is, you know, is the news we heard today, and we need to follow through on that with respect to the liquidity provided by the bond holders and the forbearance agreement, that's an important piece. So that just, you know, this is happening real time and that needs to be confirmed. So while you do have are, as Mike stated, our commitment, you know, we're working diligently to work with both Glen Arden and BCM to review these documents, and, you know, we're hopeful that that will occur expeditiously, so I just wanted to state that for the record.

Mark Hennessey: Council member Barnett.

Harriett Barnet: After you review the documents, will we be able to also see the document so we can make some sort of intelligent decision or any kind of input that makes sense?

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We can provide copies of documents to the council, specifically disclosure statements and others as they get flushed out and let them know the status of our approval. Because of things going on, I'm not sure where we can reconvene a council meeting and that, that may be problematic, but we can share that information and the status of our review, so you know where we are, that could be part of our reporting as well.

Mark Hennessey: So are there, I just want to ask council members, are there any metrics and milestones, deliverables that they'd like to see integrated into reporting, I'm just going to ask that.

Jim Davis: Mr. Chair, this is council member Davis.

So being on the provider side of this, I know both DFS and DOH very detailed what it requires in terms of plans of correction and reporting and monitoring. I would be satisfied as a council member that either we get that information or some summary of that information that might outline would be all of the things as a council member, I would want to know. So either monthly sharing of that information or if it's more convenient for the departments to have a summary of that information, I think that would be very helpful. I think it's important also because with COVID, and all the restrictions around COVID, six to nine months is not a long time. I don't think the effects of COVID going away will be fully, you know, felt in a positive way for six months, that's kind of my own health care thinking, and that kind of takes you to the end of the stabilization plan timetable. So, I think it's really critical as a council that we get tied into that monthly reporting that I know both the DOH and DFS will be very concerned and strict about.

Mark Hennessey: Any other council members who have input into reporting or milestones?

Jennifer Allinson: This is council member Jennifer Allanson.

I just want to support what Jim just outlined for the group. And I agree, I don't want the reporting coming to us to be onerous, so simple sharing or of what you compile or, you know, if there's a simplified way that you think would be more beneficial to us, which is not onerous to you. I think that would be very helpful, because I do think that we need to see the monthly reports that are provided to us as council members.

Michael Heeran: Thank you.

I mean, we'll try to do that for you. I think the goal here is with the reporting is not only to the council, but the stakeholders is we want people to know transparency. We want people to know how they're doing. We don't want to come back in six months with the surprise, right? We don't want this to come back in six months say, oh, this didn't work. So, we want to be able to report things in a relatively decent time period, like a month, allow for council members to speak out to Mark, as the chair, saying maybe we need to regroup to discuss this, maybe, you know, weigh in on how this can be put back on track and weigh in on things as they happen if there is a concern. So, we don't want to wait six months to have to do that. So that's, hopefully we can do that for you. All rise to the challenge. I know Kristina listed a bunch of things. Well, we'll try to keep them high level, summarize, like the important ones and where they are with this plan.

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Mark Hennessey: And just before we close, one of the things that I would like to see in whatever reporting put together is just some sort of information about what level of consultation is taking place with the residents and any resident association there. And that just I think it's important for us to know that there's, there's that level of communication going on. And I appreciate all the efforts to take care of that.

I'll just give one last check for council members if there's anything else that that folks sorry, council members, sorry, I apologize for that, would like to see in terms of reporting on a going forward basis.

Okay, so, Mr. Heeran, thank you so much. We appreciate it.

Are there any other questions or comments from council members on the matter before we move on to closing this portion of the meeting?

Okay, that sounds, I think is an indication of no, there's no additional questions or comments.

So, I want to thank you, council members. You know, your input is appreciated. Also, just want to say to Mr. Heeran and also to Ms. Baniak on earlier, I appreciate all the efforts you've undertaken and Mark, and Tracy Raleigh as well to try to bring this to a conclusion. I also just want to say we appreciate everything that the folks from Glen Arden are doing and BCM as well to try to, you know, make sure that there's a pathway that's helpful for the residents there. So I just want to say we all appreciate that.

So we're going to head to the end of the meeting and in about thirty seconds, but before I do that, I want to do a couple of things. First, I want to wish everybody Happy Holidays and Happy New Year, hope next year is better than this one.

I want to ask you for three different things though. Please keep wearing the mask. It saves lives. We all know that. Please refrain from social or other gatherings which can expose others to COVID. We've got a lot of really fragile people in the state and folks who could be affected by this terrible, terrible virus. And then the last thing, and this is a relatively new one, please get vaccinated for COVID-19 when you get a chance. I can tell you I'm going to, so I would just ask that everybody else please do the same.

That that concludes our business for today.

Can I have a motion to adjourn?

And again, I'm going to need that verbally because while I can see, I can only see you when you get unmuted, so if I can get that motion, I'd appreciate it.

Wayne Kaplan: Motion, Kaplin.

Mark Hennessey: That was council member Kalpin.

Can I have a second?

Jim Davis: Davis, second.

Mark Hennessey: Council member Davis, thank you so much.

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Can have a vote on the motion to adjourn?

All in favor, say, aye.

All Council Members: Aye.

Mark Hennessey: Anyone opposed to adjourning?

I don't think there's anybody, but we'll just check anyway.

Any abstentions?

The meeting is adjourned.

Thank you very much for your time.

Future meetings of the CCRC Council will be posted on the DOH website and sent out to all who have signed up for the CCRC listserv.

If you have any questions about future meetings of the council, sign up for our listserv or just, you know, if you have a question about CRC program in general, please email ccrc@health.ny.gov.

And I will convene with my mask.

And I wish everybody again, Happy Holidays, and thanks so much.