

**MINUTES of a teleconference meeting of the Boards of Directors of Baycrest Centre for Geriatric Care, Baycrest Hospital, The Jewish Home for the Aged and The Baycrest Day Care Centre held on Thursday, February 2, 2012 at 2:00pm.**

**PRESENT:** Blidner, Jeffrey; Godfrey, Paul; Jacob, Ellis; Kay, Jack; Koo, Manfred; Mirsky, Brian; Nelson, Sioban; Reichman, William; Sinervo, Pekka; Velji, Karima; Whiteside, Cathy; Zaidman, Yacov

**REGRETS:** Banks, Jordan; Barratt, Jane; Grossman, Daphna; Katz, Paul; Kimel, Warren; Shapiro, Marla

**GUESTS:** Conn, David; Harrison, Laurie; Kent, Joni; McIntosh, Randy; Roth, Michelle (Goodmans); Schipper, Paula; Sutton, Susan; Webb, Nancy

**1. CONFLICT OF INTEREST DECLARATION AND VICE CHAIR'S REMARKS**

Mr. P. Godfrey, Vice-Chair, welcomed everyone to the teleconference meeting. It was noted that Dr. A. Melman, Chairman of the Board, had recused himself from today's meeting due to a conflict of interest related to his emerging activities with Baycrest Global Solutions (BGS). Mr. Godfrey asked whether anyone had a conflict of interest to declare with respect to any issue on the agenda. Mr. B. Cracower expressed that he had a conflict of interest, also related to his emerging role with BGS and he recused himself from the meeting. Mr. Godfrey advised the Board that Ms. Michelle Roth, legal counsel from Goodmans, was joining the call to answer questions and concerns related to the creation and functioning of BGS and its business relationship to Baycrest. Ms. Roth would leave the teleconference once those questions were answered.

**2. MINUTES OF THE JANUARY 19, 2012 BOARD OF DIRECTORS MEETING**

The minutes of the Board meeting held January 19, 2012 were approved. A copy of the material is on file with the master of these minutes.

**ACTION: It was duly MOVED, regularly SECONDED and unanimously CARRIED THAT THE MINUTES OF THE JANUARY 19, 2012 MEETING OF THE BOARDS OF DIRECTORS OF BAYCREST CENTRE FOR GERIATRIC CARE, BAYCREST HOSPITAL, THE JEWISH HOME FOR THE AGED AND THE BAYCREST DAY CARE CENTRE BE APPROVED.**

**3. BUSINESS ARISING**

**3.1 Special Committee Mandate, Terms of Reference and Membership**

- i. A Special Committee, consisting initially of Jeffrey Blidner, Manfred Koo, Brian Mirsky and the new Chairman of the Board (who will serve as Chair of the Special Committee) will be established with a mandate to:
  - a) examine, review, consider and evaluate each Proposed Transaction between BGS and Baycrest;
  - b) consult to and enter into such discussions concerning any Proposed Transaction with BGS and its advisors and other representatives and such other persons as the Special Committee may determine to be necessary or advisable;
  - c) conduct and carry out such investigations and due diligence in relation to a Proposed Transaction as the Special Committee considers necessary or advisable;
  - d) negotiate each Proposed Transaction;

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- e) review and comment upon, in the course of preparation thereof, all documents delivered to the Corporation in connection with a Proposed Transaction, including proposing such modifications to the terms and conditions of any Proposed Transaction and any agreements relating thereto as the Special Committee considers necessary or desirable;
- f) review any special benefits accruing to any interested party;
- g) consider, report and make recommendations to the Board with respect to each Proposed Transaction, including as to whether such is in the best interests of the Corporation;
- h) monitor the carrying out of a Proposed Transaction;
- i) report to the Board on its activities and recommendations from time to time and to provide such advice as may be requested by the Board in respect of a Proposed Transaction; and
- j) do any other such things as the Special Committee may determine to be necessary or advisable so as to allow the Special Committee to properly perform its responsibilities and to assist the Board in complying with its duties and obligations under applicable corporate and securities laws,

it being understood that the Special Committee shall be entitled, without further authorization from the Board, to consider such additional matters that it may consider relevant to those listed above in furtherance of its mandate as outlined herein, but shall not be entitled to bind the Corporation in respect of a Proposed Transaction or any other matter except as expressly noted in paragraph 2 below. For certainty, a Proposed Transaction shall only be entered into upon approval, subject to applicable law, by the Board.

- ii. In furtherance of its responsibilities hereunder, the Special Committee:
  - a) at the expense of the Corporation, shall engage special legal counsel (the Special Legal Advisor), which may be on a joint retainer basis with the Baycrest Foundation, as soon as possible to assist with the evaluation and other aspects of the above mandate in respect of proposed initial arrangements with BGS;
  - b) may, at all times or from time to time, at the expense of the Corporation, engage such other professional advisors as the Special Committee may determine, acting reasonably, to be necessary or advisable, including additional independent legal, financial, actuarial, valuator, accounting and/or other advisors, on such terms as it may determine, to assist with the implementation and discharge of its mandate, and is authorized to enter into and bind the Corporation in respect of engagement agreements (and related indemnities, waivers and other related agreements) with respect to such advisor(s);
  - c) may request and direct the management of the Corporation and the financial and legal and other advisors to the Corporation to provide information and assistance to the Special Committee and its professional advisors and take such other actions as the Special Committee may determine to be necessary or advisable;
  - d) shall have unrestricted access to necessary information or personnel within the Corporation (including management and administrative staff); and
  - e) is granted all such powers as may be necessary or advisable for the proper performance of its mandate.
- iii. The Special Committee shall operate within and abide by the following terms of reference:
  - a) Responsibilities: The Special Committee shall, in addition to any other duties and responsibilities that may be assigned by the Board from time to time, undertake and have responsibility to carry out the mandate set forth above.
  - b) Chairman and Secretary: Unless otherwise determined by the Special Committee, the chair of the Special Committee shall preside at all meetings of the Special Committee. The Special Committee shall also identify a secretary, who need not necessarily be a member of the Special Committee, who shall attend and record minutes of all meetings of the Special Committee.

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- c) Meeting Procedures: Except as otherwise provided in these resolutions, the time at which and the place where the meetings of the Special Committee shall be held, the calling of meetings and the procedure at such meetings and other procedures of the Special Committee shall be determined by the Chair of the Special Committee.
  - d) Quorum and Approval: A quorum for meetings of the Special Committee shall be the attendance of a majority of the members thereof, provided that the Special Committee may authorize the Chair or another member of the Special Committee to attend any meeting or undertake such inquiries or actions as the Special Committee may determine to be necessary or advisable to further the mandate of the Special Committee.
  - e) Attendance: The Special Committee may invite such officers, directors and employees of the Corporation and such of the Corporation's Advisors as it may determine to be necessary or advisable from time to time to attend at meetings of the Special Committee and to assist with respect to being considered by the Special Committee, and those persons shall attend such meetings and provide such assistance.
  - f) Term: The Special Committee shall remain constituted until dissolved by resolution of the Board.
  - g) Minutes: Minutes of the Special Committee will be recorded and maintained by the secretary of the Special Committee.
- iv. The directors and officers of the Corporation shall assist, cooperate with and make themselves available to the Special Committee and its advisors and shall make available or cause to be made available to the Special Committee and, as the Special Committee may determine to be necessary or advisable, to its advisors such information, reports, documents or other information as the Special Committee shall reasonably request in order to fulfill its mandate.
- v. The directors and officers of the Corporation are hereby authorized to take such actions as are, in their opinion, necessary or advisable to give effect to this resolution.

**ACTION:** It was duly **MOVED**, regularly **SECONDED** and unanimously **CARRIED THAT the BOARDS OF DIRECTORS OF BAYCREST CENTRE FOR GERIATRIC CARE, BAYCREST HOSPITAL, THE JEWISH HOME FOR THE AGED AND THE BAYCREST DAY CARE CENTRE APPROVES THE ESTABLISHMENT OF A SPECIAL COMMITTEE AS OUTLINED ABOVE.**

### **3.1 Additional Resolution (sent to Board under separate cover)**

An additional resolution was circulated by email to the Board on February 1, 2012.

The Board has constituted a Special Committee to, among other things, assess the fairness of ongoing transactions pursuant to which the Corporation would provide to BGS branding rights to the Baycrest name, access to certain Baycrest assets and, potentially, the services of certain of its management personnel, doctors, scientists and/or other staff, all on an exclusive basis (collectively, the Baycrest/BGS Transactions).

The Special Committee, in due course, is expected to deliberate with respect to the particular transactions comprising the Baycrest/BGS Transactions as they arise.

At the last meeting of the Board held on January 19, 2012, it was recognized that marketing for seed capital investment in BGS by way of private placement would be commenced, including the distribution of private placement documentation previously circulated to the Board.

The Board wishes to indicate its support for the establishment of, and seed capital investments in, BGS in a non-binding manner.

**ACTION:** It was duly **MOVED**, regularly **SECONDED** and unanimously **CARRIED THAT** the **BOARDS OF DIRECTORS OF BAYCREST CENTRE FOR GERIATRIC CARE, BAYCREST HOSPITAL, THE JEWISH HOME FOR THE AGED AND THE BAYCREST DAY CARE CENTRE AGREES THAT IT IS THE INTENTION OF THE CORPORATION SUBJECT TO NEGOTIATION AND SETTLEMENT OF MUTUALLY ACCEPTABLE AGREEMENTS WHICH, IN ALL CASES, SHALL BE ON FAIR MARKET TERMS AS ASSESSED BY THE SPECIAL COMMITTEE, TO ALLOW THE CORPORATION TO ENTER INTO THE BAYCREST/BGS TRANSACTIONS.**

**4. REPORT OF THE GOVERNANCE COMMITTEE**

**4.1 Potential Replacements for Dr. A. Melman as Chair of Baycrest Board**

Mr. Godfrey gave the Report of the Governance Committee. A copy of the report in its entirety is attached to the master of the minutes. It was noted that Dr. A. Melman has resigned as Chair of the Baycrest Board. The Committee recommends that Mr. Garry Foster, currently a member of the Baycrest Foundation Board, replace Dr. Melman as Board Chair for the remainder of Dr. Melman's current term, which ends in June 2012. Consideration should be given by the 2012/13 Board to appointing Mr. Foster to a full three year term thereafter.

**ACTION:** It was duly **MOVED**, regularly **SECONDED** and unanimously **CARRIED THAT** the **BOARDS OF DIRECTORS OF BAYCREST CENTRE FOR GERIATRIC CARE, BAYCREST HOSPITAL, THE JEWISH HOME FOR THE AGED AND THE BAYCREST DAY CARE CENTRE APPROVES THE APPOINTMENT OF GARRY FOSTER AS A DIRECTOR OF THE BAYCREST BOARD OF DIRECTORS AND THAT HE BE APPOINTED CHAIR OF THE BOARD, EFFECTIVE FEBRUARY 2, 2012, TO COMPLETE ANTHONY MELMAN'S TERM WHICH EXPIRES AT THE ANNUAL GENERAL MEETING IN JUNE 2012.**

**4.2 Discussion Regarding Dr. A. Melman Continuing as Director**

The Committee recommends that Dr. Melman remain as an ex-officio Director for one year as immediate past chair following his resignation as Chair. He would recuse himself of any discussions regarding Baycrest Global Solutions (BGS). Because it is proposed that Dr. Melman's term as immediate past chair be more than the one-year term prescribed under the by-laws, a special resolution is required.

**ACTION:** It was duly **MOVED**, regularly **SECONDED** and unanimously **CARRIED THAT** the **BOARDS OF DIRECTORS OF BAYCREST CENTRE FOR GERIATRIC CARE, BAYCREST HOSPITAL, THE JEWISH HOME FOR THE AGED AND THE BAYCREST DAY CARE CENTRE APPROVES BY SPECIAL RESOLUTION THAT DR. A. MELMAN AS IMMEDIATE PAST CHAIR REMAIN ON THE BAYCREST BOARD OF DIRECTORS AS AN EX-OFFICIO MEMBER UNTIL THE ANNUAL GENERAL MEETING IN JUNE 2013.**

**4.3 Potential Replacements for Mr. B. Cracower as Director**

Mr. B. Cracower has resigned as a Director of the Baycrest Board of Directors. Management will develop a list of potential replacements to bring to the next meeting of the Governance Committee.

**5. CONCLUSION**

There being no further business, the meeting adjourned at 2:30pm.