



Nathaniel Witherell Family Council

"Together We Can Make A Difference"

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RESIDENT ADVOCATE

Gwen Dexter
(203) 551-5530

September 14, 2004

To : the RTM, Board of Selectmen, BET
Town of Greenwich

Family Council Resolution

Response to RTM Special Committee Report
on the Nathaniel Witherell
Town of Greenwich
Passed by the Nathaniel Witherell Family Council
September 14, 2004

The RTM Special Committee on The Nathaniel Witherell released their report on August 31, 2004 that recommends:

1. "A Connecticut not-for-profit corporation ("NFP") should be established immediately to raise charitable contributions for the new facility and, when a certificate of occupancy is issued, to purchase the new facility from the Town and assume responsibility for its operation;"
2. "the Town should undertake to construct the new facility and, upon completion, to sell the facility and related assets to NFP in exchange for a promissory note and; other consideration in an amount equal to the total cost of the Project, net of demolition and remediation costs, secured by a first mortgage on the building and a security interest in other assets, with appropriate covenants and default provisions;"
3. "Town should lease to NFP the land at 70 Parsonage Road for a period of 100 years at a nominal annual rent, [\$1.00 per year, payable in advance on the first day of the NFPC's fiscal year.]"
4. "Whether the number of Medicaid patients would also decline hinges on the success of the Continuum of Care program in shortening the average length of stay. Achieving significantly shorter lengths of stay could increase the number of Medicaid beds at the same time that Medicaid mix declines."



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Family Council's Response to the RTM Special Committee Report on TNW

After reviewing and discussing the content of the RTM Special Committee Report on Nathaniel Witherell, The Family Council is providing this written response to the key components of the Report.

1. Governance Subcommittee

Page 21 of the RTM Special Committee Report

Concerning the Governance of Nathaniel Witherell

Recommendations:

"A Connecticut not-for-profit corporation ("NFP") should be established immediately to raise charitable contributions for the new facility, and when a certificate of occupancy is issued, to purchase the new facility from the Town and assume responsibility for it's operation;"

Family Council's response

There are four points that Family Council would like to make here:

- a. TNW Board has already taken steps to apply for a 501(C) 3 for the purpose of fundraising. A program can be established by TNW for fundraising purposes while still remaining a Town Department, under Town governance, as is the case with the Greenwich Parks and Recreation Department and the Greenwich Library. Establishing a non-profit separately owned from the Town only allows for divestment of long-term employees and their re-hiring at lower wage and benefit costs by deactivating their current union rights.
- b. The events at TNW over this past year clearly point to why it is crucial that TNW remain as a Town owned and Town operated nursing home. This is true in order to provide assurances that quality of care will remain a priority for Greenwich citizens, and that Greenwich will continue to have a high quality facility, even if other privately owned facilities close in our town or region.

TNW had a former Interim Executive Director who was brought into the facility by the former Nathaniel Witherell Board of Directors. Over the course of one year, residents, staff and family members brought serious issues of concern to the former Board of Directors related to the conduct and behavior of the former Interim Executive Director.

Despite numerous requests made to the former Nathaniel Witherell Board of Directors to investigate and address the many issues that had been raised regarding the former Interim Executive Director, his behavior remained unchanged.

It was not until the Town of Greenwich Board of Selectmen, Human Resource Department and Affirmative Action Officer stepped in, that an investigation even took place. Once an in-depth investigation was conducted, findings indicated that the former Interim Executive Director was in violation of a number of Town, State and Federal laws.

If TNW had not been a Town owned and Town operated facility, employing Town employees, there would have been nothing that anyone in the Town of Greenwich could have done to assist the staff, residents and families of TNW in addressing the many problems stemming from the former Interim Executive Director's behavior and conduct.

It is also important to note that when the CT Department of Health conducted an investigation into TNW Family Council's complaint against the former Interim Executive Director, they also found that the Interim Executive Director was in violation of State and Federal laws and regulations.

- c. TNW has always received excellent State Surveys, which reflect the quality of the staff, and the care that they provide to the residents of the facility.

This past survey (June 2004), which reviewed TNW under the former Interim Executive Director's "leadership", resulted in 22 violations, clearly atypical for TNW. This latest survey shows what can happen very quickly to a quality facility like TNW, if the leadership is not balancing the needs of the residents and the staff alike.

- d. Due to the financial overruns by Nathaniel Witherell, the BET found it necessary to put in place, procedures for the oversight of budget disbursements to Nathaniel Witherell for the fiscal years 2003 – 2004 and 2004 – 2005.

2. **Report of the Construction Committee**

Page 28 of the RTM Special Committee Report

The RTM Special Committee proposes that they can raise TNW's revenues, by reducing the number of Medicaid eligible residents, which in turn will increase private pay and/or Medicare admissions.

Findings

"The CON provided a description of a Continuum Care concept about which members of the Senior Provider Network expressed concerns as indicated in the minutes of their meeting of Wednesday, July 2, 2003.

Senior Providers do not want to be included in a proposal that includes inaccurate, questionable or untrue presentations of data, accreditations, support, or an initial demonstration project."

Family Council's response

The above statements were taken from the Senior Provider Network meeting minutes of July 2, 2003, but there was additional information from that meeting that was not included in the RTM Special Committee Report. That information, as it relates to the CON is as follows:

"In a meeting with members of the (former) Witherell Board June 11th (2003) questions were raised about the initial demonstration project that was cited as producing a reduction in length of stays for Medicaid patients. Witherell Board members conceded in that meeting that no such demonstration project was done, and that they did not know the source of the statistics quoted by the consultant who wrote the document.

Senior Providers do not want to be included in a proposal that includes inaccurate, questionable or untrue representations of data, accreditation, support, or an initial demonstration program."

3. **Report of the Subcommittee on Patient Mix**

Page 50 of the RTM Special Committee Report

Recommendations

"Our recommendations follow from our analysis.

Whether the number of Medicaid patients would also decline hinges on the success of the Continuum of Care program in shortening the average length of stay. Achieving significantly shorter lengths of stay could increase the number of Medicaid beds at the same time that Medicaid mix declines."

Family Council's response

The Family Council has concerns about how low in numbers the Medicaid clients could potentially be allowed go under a privately run operation. The building plans already have reduced total bed capacity, have increased the numbers of private pay beds, and designated a special care unit for rehabilitation, which is paid for under Medicare in accordance with reimbursement for skilled nursing and rehabilitation services as a short term care operation. This has left far fewer beds available for our Town elderly, who may need long term care, and who may lack private funds to pay for expensive nursing home care should that become necessary.

Greenwich has a large number of public housing units, and senior housing units in addition to seniors currently living in their own homes or with family members. The two other facilities in town are for profit operations, and as such do not intend to break even, and nor should they as business ventures. Nathaniel Witherell on the other hand was donated to the Town to ensure care those who might need it. Without Town oversight, this is not assured. In fact the committee's report indicates a desire to "modernize the language", which is already perfectly clear. We would like assurances that the number of Medicare beds will remain where they are now in the plans, and that steps will not be taken to add on more rehabilitation beds to limit future Medicaid admissions.

The former NW Board included in their CON that they plan to create a "Continuum of Care" that would be able to keep residents in the community longer, thus reducing the number of admissions for Medicaid eligible residents to TNW. This in essence would free up beds for admission of private pay and/or Medicare admissions.

When the former NW Board first introduced their "Continuum of Care" concept, they said that this concept was based on an initial demonstration project. This initial demonstration project was cited as producing a reduction in length of stays for Medicaid patients, and that this initial demonstration project had been conducted at TNW.

From the July 2, 2003 Senior Provider Network meeting:

In a meeting with members of the Witherell Board June 11th, questions were raised about the initial demonstration project that was cited as producing a reduction in length of stays for Medicaid patients. Witherell Board members conceded in that meeting that no such demonstration project was done, and that they did not know the source of the statistics quoted by the consultant who wrote the document.

In other words, the RTM Special Committee analysis of being able to reduce the Medicaid beds, and as a result increase the income base for TNW, is contingent on their concept of a "Continuum of Care", which is in itself based on a "fictitious" demonstration project that was allegedly conducted at TNW, but which never took place.

4. Finance Subcommittee

Page 16 of the RTM Special Committee Report

2. Concerning the financial projections for the new facility operated as a Town department.

Conclusion:

“The projections show that, even with a new facility, TNW cannot operate profitably as a Town Department.”

Recommendations:

“Because a new facility cannot operate profitably as a Town department, the Board should consider operating under an alternative form of governance, namely as a not-for-profit.”

Family Council's response

Halcyon Day Properties, LTD. is a consultant hired by the former Nathaniel Witherell Board of Directors, at a cost of \$967,000 to conduct a Financial Feasibility Study for a New Building Program.

Per Halcyon Day Properties, LTD's February 11, 2002 report (page 3) they state:

“Under the worse case example, new building Alternative A (Renovation/New Construction) would not be financially viable regardless of the contingencies and actions that could be undertaken to offset cash flow reduction.

However, new building Alternative B (New Construction) would still likely remain financially viable with contingencies and reasonable actions taken to offset cash flow reduction. See Schedule #4, pages 18.”

The Finance Subcommittee of the RTM Special Committee shared at one of their meetings, that they were not comfortable with the findings of the Halcyon Report. As a result, members of this subcommittee decided to come up with their own numbers, and create their own worst case scenarios.

The Finance Subcommittee's conclusion from their own self generated numbers, is in direct opposition to the findings of a professional consultant hired (for \$967,000) by the Town of Greenwich, to look at the Financial Feasibility Study for a New Building Program.

At the 3rd public meeting it was stated that the figures were adjusted to reflect the cost of a hospital physical therapy contract and dining contract. Neither of these programs are needed at TNW, since both programs were doing better under the operation of Town departments, without an outlay of money for contractual costs. When the dining contract was brought in it was stated in a public forum presentation held at TNW, that there would be no actual cost associated with the Dining contract as the savings they produced would offset the costs. In fact, number indicate that since HDS was brought into TNW, costs increased by 70% for food service over a three-year period.

5. **Finance Subcommittee**

Page 18 of the RTM Special Committee Report

1. Concerning the potential for fundraising:

- *“To raise private funds, TNW must be structured as a not-for-profit with an independent board and a well defined governance structure;”*

Conclusion

“The lack of proven donor base and the proposed changes to TNW’s governance structure (by the RTM Special Committee) make critical the need for pre-campaign feasibility study and for prompt action to initiate charter changes and other steps necessary for the establishment of a not-for-profit corporation to begin the fundraising effort.”

2. Concerning the potential for fundraising:

Family Council’s response

TNW does not have a proven donor base, because the former NW Board has never taken steps to explore the avenue of fundraising for the facility.

TNW Board has already filed the necessary paperwork to establish a 501(C) 3 for fundraising purposes, while maintaining Town of Greenwich governance of the facility, much like the Greenwich Parks & Recreation Department and the Greenwich Library have done. Without any fundraising strategies, TNW has a long-standing history of contributions being sent in to the Resident Trust Fund, and also has an employee fund originated by Mr. Harry Nado, that is called the Nado Fund.

6. **Finance Subcommittee**

Page 19 of the RTM Special Committee Report

1. Concerning TNW’s historical financial results:

“Heretofore, TNW has been widely presumed to make a positive annual contribution to the Town budget. That presumption is not warranted.

TNW has taken a number of commendable steps to improve financial control and reporting.”

Conclusion:

“The need to account for TNW as an Enterprise Fund is reiterated as in the continuing need to control costs.”

Family Council's response

Family Council would like to make two comments here:

- a. By Town Charter, TNW Board is empowered to have responsibility for policy and administrative functions, including the budget for the facility.

When it became clear to the BET that the Nathaniel Board was spending funds in excess of their budgets, they found it necessary to put in place procedures, for money disbursements for Nathaniel Witherell, for the 2003-2004 and 2004 – 2005 fiscal years.

If it were not for the fact that TNW is a town department, the BET would not have been able to intervene and get spending under control. It is for this reason that it is imperative that the Town of Greenwich continues to have oversight along with checks and balances to ensure the financial viability of TNW.

Much of the blame for overage costs have been laid at the feet of overtime and agency nurse usage, however it is not noted that these categories of expenditure were used to fill in vacant positions, vacation coverage, and sick time, in order to maintain staffing levels. It does not identify that budgeted funds for vacant staff positions remained in their section of the budget, and served to offset them. It is also not mentioned, that requests to budget for vacation and other known replacement time that was a given, was not acted upon in the past. Failure to replace absent staff when caring for residents in a health care setting would have adverse effects on quality, and should be budgeted for as a known expense.

7. Finance Subcommittee

Page 19 of the RTM Special Committee Report

- 6. Concerning TNW's historical financial results:

Family Council's response

At the June 2004 NW Board meeting, with Bob Richardson present, Mr. Jim Lash – First Selectmen and Mr. Ed Gomeau - Town Administrator, shared their plans to put in place a system effective July 1, 2004 to track TNW's use of Town resources (e.g. use of the law department, maintenance).

8. Finance Subcommittee

Page 20 of the RTM Special Committee Report

- 7. Concerning TNW's historical financial results:

“A June 2000 survey showed that in Fairfield County, TNW had the second highest income per bed, the highest costs per bed, and the highest occupancy rate, and a payor mix fairly comparable with its peers. An important difference seems to be that wages and benefits at TNW run at 80% of total costs as compared to a 70% range for competitors.”

8. **Finance Subcommittee** (continued)

Page 20 of the RTM Special Committee Report

Recommendations:

“When contracts with TNW’s unions are up for renegotiations, every effort should be made to contain benefits at present.”

Family Council’s response

Not all nursing homes are created equal. TNW has always stood out as a quality nursing home in Fairfield County and in CT, as evidenced by the comments from residents, staff, families, and the State of CT survey results.

Qualities that distinguish an exceptional nursing home are:

1. High Quality, Well Trained, and Dedicated Staff
2. Respect
3. Activities
4. Good Food
5. Homelike Surroundings
6. Amenities
7. Safe and Clean Environment
8. Openness
9. Lack of turnover with is associated costs and quality issues
10. Active Quality Assurance Programs that result in minimal Quality of Care deficiencies or Sentinel Events

TNW has always had excellent State Surveys that reflect on the quality of the staff, and the care that they provide to the residents of the facility.

This past survey (June 2004), which reviewed TNW under the former Interim Executive Director’s “leadership”, resulted in 22 violations, clearly atypical for TNW.

This latest survey shows what can happen very quickly to a quality facility like TNW, if the leadership is not balancing the needs of the residents and the staff alike.