

PINELLAS COUNTY LICENSE BOARD FOR CHILDREN'S CENTERS  
AND FAMILY DAY CARE HOMES  
Minutes for the Regular Board Meeting for  
August 6, 2008

**APPROVED MINUTES**

The Regular Board Meeting of the Pinellas County License Board for Children's Centers and Family Day Care Homes was scheduled and properly noticed for Wednesday, August 6, 2008, at 4175 East Bay Drive, Suite 350, Clearwater, to begin at 1:30 p.m.

Board Members Present: Lourdes Benedict; Cecilia Burke, Chairman; Angela Loring; Barbra Mastrota; Judi Vitucci

Board Members Absent: Commissioner Seel, Donna Rippley

Ex Officio Member Present: Charles Minor

Advisory Members Present: Sharon Carder, Sharon Carie, June Moody

Advisory Members Absent: Terri Hajjan, Ann Hofmeister, Virginia Rowell, Anne Sullivan

County Attorney Present: Christy Pemberton

Staff Members Present: Linda Tamanini, Executive Director; Suzie Lewis, Supervisor Children's Centers; Dana Stajkowski, Recording Secretary; and other Health Department staff

Call to order: The meeting was called to order at 1:35 p.m.

Motion: A motion was made by Barbra Mastrota and seconded to approve the minutes from May 7, 2008. Motion unanimously approved.

Public Comment: None

**II. Action Items**

A. 1.

Motion: A motion was made by Judi Vitucci and seconded that 4 new Children's Centers be approved for Regular Licenses. Motion unanimously approved.

A. 2.

(There were no new Children's Centers recommended for a Provisional License.)

A. 3.

Motion: A motion was made by Barbra Mastrota and seconded that 2 new Children's Centers be recommended for a Probationary-Provisional License. Motion unanimously approved.

A. 4.

Motion: A motion was made by Judi Vitucci and seconded that 10 new Family Day Care Homes be approved for Regular Licenses. Motion unanimously approved.

A. 5.

Motion: A motion was made by Judi Vitucci and seconded that 2 new Family Day Care Homes be approved for Provisional Licenses. Motion unanimously approved.

A. 6.

Motion: A motion was made by Judi Vitucci and seconded that 1 new Family Day Care Home (Gwendolyn Hearn-Brown) Probationary-Provisional License be ratified. Ms. Hearn-Brown erroneously received a Temporary Permit as a result of Board Action on May 7, 2008. Motion unanimously approved.

B. 1.

Motion: A motion was made by Barbra Mastrotta and seconded that 7 License Changes for Children's Centers be approved for Regular Licenses. Motion unanimously approved.

B. 2.

(There were no License Changes for Children's Centers recommended for Provisional Licenses.)

B. 3.

(There were no License Changes for Children's Centers recommended for Probationary-Provisional Licenses.)

B.4.

Motion: A motion was made by Lourdes Benedict and seconded to approve 2 License Changes for Family Day Care Homes recommended for Regular Licenses. Motion unanimously approved.

B. 5.

Motion: (There were no License Changes for Family Day Care Homes recommended for Provisional Licenses.)

B. 6.

(There were no License Changes for Family Day Care Homes recommended for Probationary-Provisional Licenses.)

C.

(There were no Children's Centers recommended as Religious Exempt Centers.)

D.

Christy Pemberton, Attorney, reported that County Attorney James Bennett will be recommending to the Board of County Commissioners on August 16, 2008, that due to ethical conflicts that have resulted during this transition period that the Board of County Commissioners withhold consent for the County Attorney to represent the PCLB Board and staff.

- The Interlocal Agreement did address the fact that the Board of County Commissioners may at any time withhold consent for the County Attorney to represent the PCLB.
- Commissioner Morrioni received a letter from Linda Tamanini requesting continued attorney representation prior to the PCLB moving to the Health Department.
- The Commission has not visited this issue since 1992.
- The ethical concerns are that the County Attorney represents the Board of County Commissioners; Commissioner Welch sits on the JWB Board and Commissioner Seel sits on the PCLB Board; there is a concern that in Christy Pemberton's attempt to advise the PCLB Board of options that she cannot advise PCLB Board with regard to becoming an ordinance. To become an ordinance, the PCLB Board will need to petition the Board of County Commissioners and the Commission by law must pay 75% of the PCLB budget. Therefore, the interests that PCLB may have in wanting to become an ordinance may be in conflict with the Board of County Commission's interest and that of the County Administrator.

Christy Pemberton's report continued:

- An ethical conflict arose last year during the transition and has arisen again. A request has been sent to the County Administrator's office to attend a meeting that the JWB is calling to discuss making the PCLB an ordinance.
- There were ethical concerns with Attorney Pemberton prosecuting to represent staff and sitting with the Board. This was resolved by designating a second attorney to represent the staff in prosecutions.
- However, as the transition has continued, the problem is that if staff has a question, i.e. removing dangerous items found during a visit, they would ask and Attorney Pemberton would advise them because the Health Department didn't have the means at that time of transition to provide advice for a whole new staff (this was discussed during the negotiations of the Interlocal Agreement). The problem that results, under the Interlocal Agreement, is that staff asks and receives legal advice from Attorney Pemberton under the County Attorney's office, but if litigation is brought because there is a question whether staff violated someone's rights, then the Health Department has the responsibility to defend the litigation. A lawyer never wants to be in the position of advising someone else's client.
- Records are kept for PCLB Board and for staff in the manner that the Health Department keeps records. If a public records request is received, Attorney Pemberton should be in a position to say how it should be handled and advise the Board, but the records are no longer the Board's records.
- Under the Rules of Professional Conduct an attorney cannot represent two clients who have competing interests. Attorney Pemberton represents both Commissioner Welch on the JWB Board and Commissioner Seel on the PCLB Board who could ultimately be on competing sides of an issue. JWB Board has their own attorney, which is what the recommendation is for PCLB Board, so there are no ethical concerns involving the County.
- In answer to Judi Vitucci's recommendation that Attorney Pemberton remain as the Board attorney but not represent the Board on conflicting issues, Attorney Pemberton stated that the Florida Bar frowns upon the unbundling of legal services. The problem regarding the issue of becoming an ordinance, is that one of Attorney Pemberton's clients would be going to another of her clients, which still puts Attorney Pemberton and the County Attorney in conflict.
- In response to Judi Vitucci's budgetary concerns, Attorney Pemberton responded that when the County Attorney held the meeting with Linda Tamanini that the general feeling was that with two staff positions being rehired there may be money in the budget for an attorney. Attorney's usually work "pretty cheap" when representing governmental bodies.

In response to Judi Vitucci's question about whether the Health Department attorney could assist, Linda Tamanini responded that during the agency's transition to the Health Department it was made very clear that the Health Department attorney's workload, that of serving as legal counsel for a group of counties, would not permit the additional workload. When Ms. Tamanini does have legal questions that she runs by the Health Department attorney, the response is sometimes to run it by Attorney Pemberton. It's not always clear who to go to when there are two attorneys.

Chairman Burke reported that there will be a meeting concerning County Attorney Bennett's letter and an update will be made at the next Board meeting.

E.

The Nominating Committee reported that Lourdes Benedict was nominated for Chairman. The term of the newly elected Chairman will become effective September 2008. Chairman Burke reported that the Nominating Committee discussed possibly having a line of succession to Chairman and a 2 year term instead of one year.

Motion:

A motion was made by Angela Loring and seconded to elect Lourdes Benedict as Chairman. Motion unanimously approved.

Lourdes Benedict appointed Judi Vitucci as Secretary.

F.

Pinellas Providers Home Child Care Association recommended Heidi Buck as the Advisory Committee member.

Motion:

A motion was made by Judi Vitucci and seconded to accept the recommendation of Heidi Buck as Advisory Committee member.

Heart to Heart Child Care Association recommended Donna Huard as the Board member.

Motion:

A motion was made by Judi Vitucci and seconded to accept the recommendation of Donna Huard as Board member.

Attorney Pemberton advised the newly appointed members that they are now subject to Government in the Sunshine, and that they may not discuss with each other or with other members of the Board or Advisory Committee any issue that may come before the Board. Those discussions must take place at a Board meeting.

G.

Motion:

A motion was made by Angela Loring and seconded to approve the amendments to Emergency Regulations for Children's Centers, Family Day Care Homes and Large Family Child Care Homes.

Emergency Regulations:

Children's Centers:

2. A children's center must contact the Child Care Licensing Program within 24 hours after the event. Damage to the buildings or property may require approval from the Child Care Licensing Program and in addition may require the Health Department and/or other agencies to inspect and approve the premises.

Family Day Care Homes:

2. A family day care home or large family child care home provider must contact the Child Care Licensing Program within 24 hours after the event. A home that sustains damage may not operate until repairs have been made and the provider receives approval from the Child Care Licensing Program.

There was discussion concerning the language of the second sentence in both Emergency Regulation statements presented for approval.

Board Direction:

Attorney Pemberton will review the language of the second sentence in both of the above emergency regulations and bring a recommendation back to Board at the September 23, 2008 meeting.

Motion was unanimously approved.

H.

Ms. Tamanini reported to the Board there may be a possible problem in meeting state compliance with respect to capacity when a provider is caring for 3 children under the age of one and more than one household school age child.

In regard to the May 3, 2006 report mentioning "8 infant deaths" in Pinellas family day care homes, Ms. Tamanini responded that the American Sociological Review stated the fatality rate was 7 times greater in homes than in centers. Another child has died and now 9 infant deaths have occurred in homes and none in centers. None have been criminally determined. Ms. Tamanini explained that in an infant room in a center, staff is present in the room when children are sleeping. In a family day care home, keeping sleeping children in view of the provider is not a requirement. Ms. Tamanini asked for suggestions.

Public Comment:

A provider in attendance commented that infants in her home stay with her.

Motion:

A motion was made by Judi Vitucci and seconded to reject appointing a committee to change the Family Day Care Home capacity and for a letter to be sent to providers explaining contractual compliance for capacity. Motion unanimously approved.

I.

Ms. Tamanini presented the new regulation for supervision in large family child care homes.

Public Comment:

This is very helpful for those providers who have to get their children to school.

A motion was made by Judi Vitucci and seconded to approve staff's recommendation to decrease minimum standards for Supervision for regulations governing large family child care homes. Motion unanimously approved.

I. PERSONNEL

C. Supervision

3. If children remain in the home, the adult supervision staff-to-child ratios as required for family day care homes shall be maintained. In addition, one (1) staff on the field trip and one (1) staff member remaining on the premises with children must have a valid and current certificate(s) of course completion for infant and child cardiopulmonary resuscitation (CPR) procedures and first aid training. At no time shall the total number of children at any given time exceed the licensed capacity.

J.

Motion:

A motion was made by Judi Vitucci and seconded to approve the following Regular Board Meeting dates for 2009. Motion unanimously approved. January 7, April 1, July 1, October 7.

Chairman Burke recommended two of the four regular meetings be in the evening beginning at 6:30 p.m.

Motion:

A motion was made by Lourdes Benedict and seconded to approve two of the four meetings be held in the evening beginning at 6:30 p.m.

Public Comment:

A provider recommended January and July as the evening meetings, which was approved by Board.

Motion:

A motion was made by Angela Loring and seconded to approve the following Special Board Meeting dates in 2009 to begin at either 1:30 or 6:30 p.m. depending on the meeting topic. Motion unanimously approved. February 19, May 14, August 20 and November 19

K.

Attorney Christy Pemberton reported that the Health Department is requesting a change in the rent because the Health Department was unfamiliar with the modular workstations at the time they had prepared the budget for JWB which was a significant amount of time before the budget was presented to the Board last September. The amended budget can only be approved through the approval of a resolution filed with the Clerk of the Court.

In answer to Judi Vitucci's question concerning the rent per square foot, Stephanie Judd responded that it was \$17.32 and that the square footage cost will change and that the cost will be covered by a mixture of lapsed funds.

In answer to Lourdes Benedict's question regarding the significance of the workstations, Stephanie Judd reported Dr. Claude M. Dharamraj received the original request in February and the request was formalized in April 2007. The Health Department was asked to submit a budget in May 2007 based on the staffing pattern which they based on The Vital Statistics office in the same building with almost the same number of staff. At the time the Health Department had no idea about the number filing cabinets, what type of furniture, etc. After the budget was approved, the Health Department was then allowed to come look at what the License Board had; it was apparent that it would not fit in the original designated space.

Motion: A motion was made by Judi Vitucci and seconded by Barbra Mastrota to approve the Amended Resolution. Motion unanimously approved. Ayes: 5 Nays: 0 Absent and not voting: 2

L.

Motion: A motion was made by Judi Vitucci and seconded to approve the reduction of inventory. Motion unanimously approved.

M.

Chairman Burke reported that she had met with John Geisler and Gayle Guidash regarding the replacement of the Executive Director. Mr. Geisler reported that the posting can be extended. Stephanie Judd explained the posting process with People First and Jobbing.com, broad banding of positions, and the requirements for using titles of positions. The posting was also emailed to Coordinated Child Care, the Juvenile Welfare Board, and the Early Learning Coalition.

Lourdes Benedict requested staff email the posting to her office. Judi Vitucci commented that the Early Learning Coalition does not have it posted on their site yet.

Motion: Chairman Burke appointed the Search Committee: John Geisler (HD), Lourdes Benedict (DCF), Earl Reeves (JWB), Cecilia Burke, Judi Vitucci, Barbra Mastrota and Sharon Carie. Based on Health Department criteria the Committee will narrow the search to 3 to 5 candidates for the Board to select and approve. The Committee may decide to have more than one interview.

Attorney Pemberton commented that the Health Department is being very kind allowing the Board to appoint an Executive Director, that staff is Health Department staff and does not have to comply with the Board's request to appoint the Executive Director. However, the Executive Director serves at the pleasure of the Health Department with the recommendation of the Board.

M. continued:

Stephanie Judd stated that on behalf of the Health Department, that the Executive Director serves at the pleasure of the Pinellas County Health Department with the concurrence of the Board as an all encompassing statement; that there would not be a hiring, a firing, a disciplinary action, or an evaluation that would not include the Board. She stated that it is not the intent of the Health Department to do anything unilaterally to the Executive Director's position.

Motion: A motion was made by Lourdes Benedict and seconded to approve the Search Committee Timeline. Motion unanimously approved.

N. 1. Chairman Burke stated that it may be premature to set up a committee to review Board Policies and asked the new Chairman to place it on a future agenda.

Motion: A motion was made by Judi Vitucci and seconded to delay the appointment of a Board Policy Committee and be placed on a future Board agenda. Motion unanimously approved.

N. 2. Chairman Burke introduced the Evaluation Committee Timeline for the Executive Director and that it could be included in the Board Policy Committee work.

Stephanie Judd stated that since this will be a new hire that the first slimmed down version of an evaluation is in 6 months then a full evaluation at one year.

Christy Pemberton pointed out that the timeline contains a Sunshine violation on January 22, which should be a Sunshine meeting and not an email to the Evaluation Committee for individual "review and comment".

Stephanie Judd will send to the Chairman the Health Department's evaluation tool, the review dates so the Board's tool can be folded into the Health Department's evaluation tool, and a recommended timeline based on meeting already set.

Motion: A motion was made by Judi Vitucci and seconded to submit the estimated timeline to Stephanie Judd for review and revision. Motion unanimously approved.

N. 3. Ms. Tamanini presented staff's recommendation of what to place on the website regarding overnight care.

Motion: A motion was made by Judi Vitucci and seconded to approve staff recommendation for overnight care information on the website. Motion unanimously approved.

### III. Information Items

C.

Ms. Tamanini reported on the DCF Audit report: DCF did not pull a second round of files due to the high compliance rate; LB was the first agency in which round two was not needed; and there was one component that did not meet 100% compliance in that one file had listed a household member who had actually moved out and that's why there was no screening for that person.

Gary Cernan, JWB, reported that he had interviewed staff, reviewed files, that the staff is doing their jobs, and that staff reported they always felt welcome at the Health Department.

Adjournment: The Board adjourned at 3:30 p.m.

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Judi Vitucci, Secretary