

PINELLAS COUNTY LICENSE BOARD FOR CHILDREN'S CENTERS
AND FAMILY DAY CARE HOMES
Minutes for Public Hearing and Regular Board Meeting for
February 1, 2006
APPROVED MINUTES

The Public Hearing and Regular Board Meeting of the Pinellas County License Board for Children's Centers and Family Day Care Homes convened Wednesday, February 1, 2006, at 6698 68th Avenue North, Pinellas Park beginning at 1:30 p.m.

- Board Members Present: Richard J. French, Jr., Chairman; Barbara Backus; Terri Hajian, Commissioner Seel (arrived at 1:45 p.m.), Donna Rippley, Secretary; Ben F. Shirley, Jr.; Joseph A. Smith
- Board Members Absent:
- Advisory Members Present: Debra Ballinger, Ann Hofmeister, Bette Ra Ivey, Judy Macdonald, June Moody, Denise Roach, and Virginia Rowell
- Advisory Members Absent:
- County Attorneys Present: Christy Pemberton
- Staff Members Present: Linda Tamanini, Executive Director; Kathy Mulrennan, Program Manager Children's Centers; Jewel Waiters, Program Manager Family Day Care Homes; Dana Stajkowski, Recording Secretary; Marianne Czarnatowicz, Office Administrator; and other agency staff
- Call to order: The meeting was called to order at 1:35 p.m.
- Agenda: The agenda was accepted as presented.
- Minutes: A motion was made by Joseph Smith to approve the minutes from the Public Hearing and regular meeting of November 2, 2005. Motion adopted.
- Presentation: Shirley Lynn Gibson and Christopher Dziuban made a presentation before Board videotaped by Ms. Gibson to request a variance for Mr. Dziuban's son to remain in care for more than 14 hours. Mr. Dziuban is in the US Coast Guard, is a single father, and is required to be prepared to stand duty for 24 hours every 4th day. Ms. Gibson is open for day care for 24 hours, 7 days per week. Mr. Dziuban has chosen Ms. Gibson as his son's provider and would like for him to remain with Ms. Gibson. Mr. Dziuban's written request is for "over 24 hours."
- Board discussion followed.
- Attorney response: Attorney Pemberton reminded Board that PCLB must, by contract with the Department of Children and Family Services, meet or exceed the state of Florida standards for child care. Therefore, Board may not act to decrease the state standard, by allowing child care for more than 24 hours and at the same time maintain its contract with the Department of Children and Family Services to license child care in Pinellas County.

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Attorney response:

Attorney Pemberton further advised that:

- At the next Board meeting, so it could be properly advertised, Board revisit the current family day care home variance, that was developed through committee work.
- There is no exception to the state's "less than 24 hours" to allow for longer care in the case of emergency workers and that's a problem.
- If Board wanted to consider increasing the current variance hours and/or days for the military, then Board would need to consider other similarly situated people such as law enforcement, public officials, etc. The military is not the only organization at the mercy of their employer.
- If the state law is changed, which Ms. Gibson reports she is working on, Board would still need to look at PCLB's law to be sure it could be defended in court under the equal protection argument. The best we can do is craft something that's less than 24 hours, which will not solve the problem in this case.
- Board must give staff guidelines for making decisions for applying a variance.
- A subcommittee (4 Board members) who meets in the Sunshine could grant a temporary variance that would be ratified at the next full Board meeting.
- Providers must not be in a position to decide when they are using a variance, only Board may approve variances.
- There could be different interpretations of Section C under the Variance. When a rule/standard is unclear, the rule/standard history determines the intent. In this case the intent was to allow an extension of days not hours.
- That this situation is not, in her opinion, an extraordinary circumstance.

Chairman recommendation:

Chairman French recommended Board follow the proper procedure of holding a Public Hearing to receive input from the public before making any changes to a standard.

Motion:

A motion was made by Barbara Backus to give Mr. Dziuban an emergency variance based on extraordinary circumstances for 23 hours for this one child. Commissioner Seel seconded the motion and amended it to say this emergency variance would be temporary until a subcommittee could draft a variance that would be presented at Public Hearing. Barbara Backus and Commissioner Seel voted yes. Terri Hajian, Ben Shirley, Richard French, Donna Rippley, and Joseph Smith voted no. The motion failed.

Motion:

A motion was made by Donna Rippley to appoint a subcommittee to look at the variance and bring it back to a meeting of the entire Board. Motion adopted.

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Subcommittee appointed: The subcommittee will consist of the Advisory Committee members: Debra Ballinger, Ann Hofmeister, Bette Ra Ivey, Judy Macdonald, June Moody, Denise Roach, and Virginia Rowell; Board members: Barbara Backus and Joseph Smith; and staff. The committee will meet and bring a recommendation back to the Board on March 6, 2006.

Staff Response: Staff will follow-up with Resource and Referral and the Coast Guard to continue to assist Mr. Dziuban.

Board Commendation: Ms. Gibson was commended for her honesty and her ethics.

A. 1.
Motion: A motion was made by Donna Rippley that 9 new Children's Centers be approved for Regular Licenses. Motion adopted.

A. 2.
Motion: A motion was made by Commissioner Seel that 2 new Children's Centers be approved for Provisional Licenses. Motion adopted.

A. 3.
Motion: (There were no new Children's Centers recommended for a Probationary-Provisional License.)

A. 4.
Motion: Ms. Tamanini reported that Nora Reitzel, Largo, was added and that Alissa Kelly, Redington Shores, was deleted therefore recommending 24 new Family Day Care Homes for Regular Licenses. A motion was made by Donna Rippley that 24 new Family Day Care Homes be approved for Regular Licenses. Motion adopted.

A. 5.
Motion: Ms. Tamanini reported that Nora Reitzel, Largo, was deleted therefore recommending 4 new Family Day Care Homes for Provisional Licenses. A motion was made by Barbara Backus that 4 new Family Day Care Homes be approved for Provisional Licenses. Motion adopted.

A. 6.
Motion: (There were no new Family Day Care Homes recommended for a Probationary-Provisional License.)

B. 1.
B.1 Motion: Ms. Tamanini reported that Grace Children's Center, Kidz World Preschool and YMCA School Age Child Care Program Northwest Elementary, all of St. Petersburg, and Little Lambs Christian Preschool, Seminole, were added therefore recommending 9 License Changes for Children's Centers for Regular Licenses. YMCA's (NW) capacity is for 80 not 75. A motion was made by Joseph Smith that 9 License Changes for Children's Centers be approved for Regular Licenses. Motion adopted.

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B. 2. Ms. Tamanini reported a change; that Mt. Zion Children's Center's reason for a Provisional License is Lighting instead of Health Inspection; and that Grace Children's Center, Kidz World Preschool and YMCA School Age Child Care Program Northwest Elementary, St. Petersburg, were deleted therefore recommending 2 License Changes for Children's Centers be approved for Provisional Licenses.

Motion: A motion was made by Donna Rippley that 2 License Changes for Children's Centers be approved for Provisional Licenses. Motion adopted.

B. 3. Motion: (There were no License Changes for Children's Centers recommended for a Probationary-Provisional License.)

B.4. Ms. Tamanini reported that Donna Jackson Jones, Oldsmar, was added therefore recommending 3 License Changes for Family Day Care Homes be approved for Regular Licenses.

Motion: A motion was made by Joseph Smith that 3 License Changes for Family Day Care Homes be approved for Regular Licenses. Motion adopted.

B. 5. Ms. Tamanini reported that Donna Jackson Jones, Oldsmar, was deleted therefore recommending no License Changes for Family Day Care Homes for a Provisional License.

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

B. 6. Motion: (There were no License Changes for Family Day Care Homes recommended for a Probationary-Provisional License.)

C. Motion: A motion was made by Joseph Smith that 1 Children's Center be approved as a Religious Exempt Center. Motion adopted.

D. Motion: A motion was made by Commissioner Seel to approve the following recommendations – A, B 1, B 2, and B 3. Motion adopted.

Recommendation A: New regulations meeting state rules for:

- ♦ *Licensing Regulations Governing Pinellas County Children's Centers*
- ♦ *Licensing Regulations Governing Pinellas County Specialized Children's Centers for Mildly-Ill Children*

Recommendation B #1: Increase minimum standards for General qualifications. Personnel in children's centers for regulations governing children's centers and specialized children's centers for mildly-ill children

IV. PERSONNEL

A. General Qualifications

3. (mildly-ill regulations)

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II. D.

Recommendation B #1: continued

I. PERSONNEL (children’s center regulations)

A. General qualifications. Personnel in children’s centers:

- 3. Shall be free from the influence of drugs which impairs their ability whether narcotic or non-narcotic and be free from the influence of alcohol.

Recommendation B #2: Increase minimum standards for Building for regulations governing children’s centers

VI. PHYSICAL ENVIRONMENT

A. Building

- 1. The building to be used for housing children in a children’s center shall conform to the building, electrical, and codes of the local authority within whose jurisdiction the children’s center is located. It shall conform to the fire regulations of the local fire authority within whose jurisdiction the children’s center is located or to the public school fire code (Chapter 6A-2 F.A.C.) if licensed program is operated in a public school. Any costs required to be paid to procure such inspection and the appropriate certification shall be paid by the applicant directly to the inspecting authority.

Recommendation B #3: Increase minimum standards for Sanitation and Safety for regulations governing specialized children’s centers for mildly-ill children

VIII. PHYSICAL ENVIRONMENT

B. Sanitation and Safety

- 10. No firearms or weapons as defined in Section 790.001, F.S., shall be allowed within any building or conveyance, or upon any person located on the premises, excluding federal, state or local law enforcement officers.

Motion:

A motion was made by Joseph Smith to approve staff’s recommendation to modify the increase to minimum standards for Rules for Pools Located at Family Day Care Homes and Large Family Child Care Homes for regulations governing family day care homes. Motion adopted.

IV. Physical Plant Housing Family Day Care Homes

E. Rules for Pools Located at Family Day Care Homes and Large Family Child Care Homes

- 1. Fences and Locks

a. . . .

All doors and gates in the fence or barrier shall be locked at all times when children are in care. In addition, the family day care home operator shall ensure that all egress and ingress leading to the pool, spa, or hot tub area remain locked at all times while children are in care.

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II. D. Motion:

A motion was made by Commissioner Seel to approve staff's recommendation to modify the increase to minimum standards for Rules for Pools Located at Family Day Care Homes and Large Family Child Care Homes for regulations governing family day care homes. Barbara Backus opposed. Motion adopted.

IV. Physical Plant Housing Family Day Care Homes

E. Rules for Pools Located at Family Day Care Homes and Large Family Child Care Homes

4. Swimming pool and/or spa are off limits to all children, the provider and other child care personnel during child care hours. Other adults eighteen (18) years and older may use the pool during child care hours as long as all pool regulations are maintained.

Motion:

A motion was made by Commissioner Seel to approve staff's recommendation to increase minimum standards for Fines for regulations governing large family child care homes. Motion adopted.

VIII. Enforcement

- A. Large family child care homes shall meet all requirements in *Licensing Regulations Governing Pinellas County Family Day Care Homes* in addition to the requirements listed herein.
- B. Large Family Child Care Homes will be subject to the same policies and procedures found in Section XIII. ENFORCEMENT OF FAMILY DAY CARE HOMES.
- C. The Pinellas County License Board may impose an administrative fine, not to exceed \$1,000, for failure to comply with licensure requirements.

Motion:

A motion was made by Ben Shirley to approve staff's recommendation to increase minimum standards for License Required; Injunctive Relief for regulations governing family day care homes. Motion adopted.

XIII. ENFORCEMENT OF FAMILY DAY CARE HOMES

J. License Required; Injunctive Relief

1. The operation of a family day care home without a license or a large family child care home without a license is prohibited. If the License Board discovers that a family day care home is being operated without a license, or a large family child care home is being operated without a license, the License Board is authorized to seek an injunctive relief in the circuit court where the home is located to enjoin continued operation of the family day care home or large family child care home that is not licensed.
2. Other grounds for seeking an injunction to close a family day care home, or large family child care home are that:

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II. D.

- a. There is any violation of the standards applied under Licensing Regulations which threatens harm to any child in a family day care home, or large family child care home.
 - b. A licensee has repeatedly violated the standards provided for under Licensing Regulations.
 - c. A family day care home, or large family child care home continues to have children in attendance after the closing date established by the License Board.
3. An administrative fine may be imposed on any family day care home, or large family child care home operating without a license consistent with the provisions of Licensing Regulations XIII.I.

E. Motion: A motion was made by Joseph Smith to select February 7, 2007, for an evening meeting beginning at 7:00 p.m. Board would like to know the attendance for evening meetings. Motion adopted.

Motion: A motion was made by Joseph Smith to schedule special meetings between regular meetings that will be cancelled if not needed. Motion adopted.

F. Motion: A motion was made by Commissioner Seel to approve staff's recommendation for reduction in LB assets – HP Vectra Computers US92608773 and US92608752. Motion adopted.

G. Motion: A motion was made by Ben Shirley and seconded by Commissioner Seel to approve the County Attorney's request to waive a potential conflict of interest for the Board appointed attorney to also represent the License Board in civil matters. Motion adopted.

H. Motion: A motion was made by Commissioner Seel to select March 6, 2006, at 7:00 p.m. for a special meeting to take final agency action to revoke family child care licenses and to receive a recommendation from the subcommittee regarding a variance. Motion adopted.

At 3:30 p.m., Ben Shirley, Commissioner Seel and Joseph Smith left the meeting.

III. I. Ms. Tamanini reported that Alisiah Kelly has paid her fines.

K. Ms. Tamanini reported to Board that there were 686 vacancies (570 fdc, 116 cc) for infant care and that family day care providers are calling more frequently to update Resource and Referral on provider vacancies. She also reported that family day care staff collected vacancy information for November, December, and January during 415 inspections (out of 757 fdch) and found 168 infant spaces available.

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III. Update on Banks: Attorney Pemberton reported that Janie Banks' attorney has filed an appeal with the Department of Children and Family Services regarding Board's November 2, 2005 decision, and that Ms. Pemberton has filed a motion to remove the appeal. Ms. Banks who was convicted of Aggravated Assault (Count I) and Battery (Count II) has been disqualified from having a license to care for children.

IV. Open Agenda

1. Joan Yetman, 6896 Circle Creek Drive, Pinellas Park, FL, commented to the Board that she would like Board to look into the process of becoming a substitute for family day care homes, that she applied 2 months ago to be a substitute and is still waiting, that she had been employed by PCLB as a licensed provider for 17 years and therefore we know her, and that she had been licensed to substitute in the past. Ms. Yetman wants to know why it's taking so long to be approved to be a substitute.

Responses: Staff responded to Ms. Yetman that approving a former provider who has current background screening clearances and valid training documentations normally only entails transferring copies of that information to the file of the person who has requested to use the substitute. However during the fall of 2005, staff implemented new state regulations including increased background screening requirements.

Staff also clarified that providers are self-employed and not employees of the License Board and substitute information is tied to the licensed provider, specifically for background screening purposes.

Staff advised that she would research Ms. Yetman's concern and contact her. Staff also suggested that Ms. Yetman call and discuss any future questions with staff.

Board suggested a traveling file, similar to the A.N.G.E.L.S. Program, substitutes could carry from provider to provider, as long as it would meet requirements.

2. Anne Brooks commented that when pool or cable repairs are being made that a gate may be left open in the yard. How, if they are there, and a gate is left open does a provider keep from having a non-compliance.

Response: June Moody, family day care representative on the Advisory Committee, suggested that the provider keep the area off limits while the repairs are being made or take the children to the park during that time. Staff concurred.

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Motion:

There being no further business, a motion was made by Barbara Backus to adjourn the meeting at 4:00 p.m.

Respectfully submitted,

Donna Rippley, Secretary