

**MINUTES
STATE HEALTH FACILITIES COUNCIL
MAY 13, 2013
LUCAS STATE OFFICE BUILDING
321 EAST 12TH STREET, FIRST FLOOR, ROOM 145
DES MOINES, IOWA
ELECTRONIC MEETING**

This electronic meeting of the State Health Facilities Council was held in accord with section 21.8 of the Code of Iowa entitled "Electronic Meetings." The Code states that a governmental body may conduct a meeting by electronic means only if circumstances are such that a meeting in person is impossible or impractical, and if the governmental body complies with the provisions of section 21.8. It was impractical for the Council to hold an in-person meeting to discuss a request for reconsideration of a vote taken April 25, 2013 on an extension request because of the expense in assembling the Council in person, time commitments of the Council members, and the anticipated short nature of the meeting. This electronic meeting was held in Room #145, 1st Floor, Lucas Building. Notices and agendas were posted in the building and on the CON web page.

I. 2:30 PM ROLL CALL

MEMBERS PRESENT VIA PHONE: Bill Thatcher, Chairperson, Vergene Donovan, Bob Lundin and Roberta Chambers were present via phone.

STAFF PRESENT: Barb Nervig and Heather Adams, Counsel for the State (present in the conference room).

OTHERS PRESENT: Ken Watkins of Davis Law, representing Sunnybrook, was present in the conference room. Betty Howell, owner of Sunnybrook and Todd Hackett, contractor for Sunnybrook participated via phone. Doug Gross of Brown Winick and Ryan Matheny representing Arbor Court participated via phone.

II. REQUEST FOR RECONSIDERATION

Request to reconsider and amend the Council's decision of April 25, 2013 regarding an extension of a previously approved project for Sunnybrook Living Care Center, L.C., Fairfield, Jefferson County.

Staff report by Barb Nervig. Ken Watkins, representing the applicant, made a presentation and asked for the Council to reconsider and amend their motion of April 25, 2013 to include the completion of nine additional beds by May 25, 2013. Doug Gross, representing Arbor Court, an affected party provided comments. The Council asked questions of the applicant.

A motion by Lundin, seconded by Chambers to Deny the request for reconsideration carried 4-0. The denial was based on the finding that there was not significant reported progress on the nine beds in the last three years.

The meeting was adjourned at 3:00 PM.

**IOWA DEPARTMENT OF PUBLIC HEALTH
STATE HEALTH FACILITIES COUNCIL**

IN THE MATTER OF THE)
CERTIFICATE OF NEED EXTENSION FOR)
)
SUNNYBROOK LIVING CARE CENTER, L.C.)
FAIRFIELD, IOWA)
)
REQUEST FOR RECONSIDERATION)

DECISION

This matter came before the State Health Facilities Council for review on Monday, May 13, 2013.

BACKGROUND

The project, the addition of 50 nursing facility beds, was originally approved on January 29, 2009 at an estimated cost of \$2,734,000.

Written findings were issued April 27, 2009 and on May 15, 2009, Parkview Care Center, an affected party who participated in the formal review procedure, filed an application for rehearing. The Council denied the request for rehearing in written findings dated June 4, 2009. A petition for judicial review was filed by Parkview Care Center with the District Court in Polk County on July 1, 2009.

A six month extension was granted by the Council on December 2, 2009. On June 15, 2010, the Council voted to grant a second six month extension based upon the finding that the project had been delayed due to litigation and the appeal period had recently expired (May 17, 2010).

On November 3, 2010 the Council voted to grant a one year extension based on the finding that adequate progress was being made.

On October 19, 2011 the Council voted to grant a one year extension based on the finding that adequate progress was being made.

On October 12, 2012 the Council voted to grant a six-month extension based on the finding that adequate progress is being made. The Council requested additional information (floor plan and financial breakdown) be submitted prior to their next review.

In April 2013, the department received an extension request from Sunnybrook stating the final blueprints for the remaining beds had been reviewed and approved by DIA and the Fire Marshall's Office and a wing comprising an additional 15 beds would be ready for occupancy by May 15, 2013. The applicant anticipated that an additional 9 bed wing

would be open approximately September 15, 2013. The applicant stated they do not anticipate completing the final 12 beds due to the expense making it not cost effective.

The applicant asked for an additional six months to finalize the work on the nine beds that were scheduled to be ready by September 15, 2013.

The Council, after reading the extension request and hearing comments by staff and the applicant, voted 5-0 to Grant an Extension of Certificate of Need per Iowa Administrative Code 641—202.13. The extension is valid for one month (May 25, 2013) to allow the completion of the 15 beds for which the applicant has made sufficient progress (scheduled for occupancy by May 15, 2013.) The Council voted to deny requests for any other extensions on this project as there has not been sufficient progress on the remaining beds since the project was originally approved in 2009.

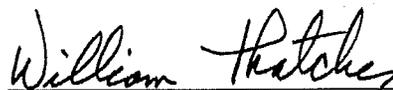
On May 1, 2013 the applicant submitted a “Request for Reconsideration” requesting that the Council reconsider and amend its decision of April 25, 2013 and grant a one month extension through May 25, 2013 to allow Sunnybrook to complete 24 beds.

Ken Watkins of Davis Law, representing Sunnybrook, was present in the conference room. Betty Howell, owner of Sunnybrook and Todd Hackett, contractor for Sunnybrook participated via phone. Doug Gross of Brown Winick and Ryan Matheny representing Arbor Court participated via phone. The applicant stated that five days after the April 25, 2013 meeting of the Council, work began on the nine additional rooms with a plan for completion on May 24, 2013.

DECISION

The Council, after reading the request and hearing comments by staff, the applicant and affected parties, voted 4-0 to deny the request for reconsideration. The decision was based on the finding that at the time of the April 25, 2013 vote, no work had begun on the nine beds and there had been insufficient progress on the nine beds since the project was originally approved in 2009.

Dated this 8th day of July 2013



William Thatcher, Chairperson
State Health Facilities Council
Iowa Department of Public Health

cc: Health Facilities Council
Department of Inspections & Appeals, Health Facilities Division