

MINUTES
STATE HEALTH FACILITIES COUNCIL
Friday, April 28, 2017
Lucas State Office Building
321 East 12th Street
Room 523
Des Moines, Iowa

Electronic Meeting

This electronic meeting of the State Health Facilities Council was held in accordance with Iowa Code section 21.8 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 access is provided to the public. An in-person meeting of the Council to handle this limited agenda was impractical due to the schedules of the Council members and the resources of the Department. This electronic meeting originated in Room 523 at the Lucas State Office Building, 321 E. 12th Street, Des Moines and public access to the meeting was provided at this location. Notices and agendas were posted in the building and posted on the Department’s web site under the Certificate of Need Program.

1:01 PM ROLL CALL

MEMBERS PRESENT VIA PHONE: Bob Lundin, Chairperson; Roberta Chambers; Brenda Perrin; Connie Schmett and Roger Thomas.

STAFF PRESENT: Becky Swift (present in the conference room)

STAFF PRESENT VIA PHONE: Michelle Rabe, Conflict Counsel for the State

OTHERS PRESENT VIA PHONE: Doug Gross, Rebecca Brommel and Catherine Cownie of Brown Winick Law; Ed McIntosh of Dorsey & Whitney; and Caroline Giddings, Mercy Medical Center in Cedar Rapids.

I. MOTION FOR STAY

1. Mercy Cedar Rapids, Cedar Rapids, Linn County: Initiate Open Heart Surgery
\$1,470,906

In the matter of the application of Mercy Medical Center in Cedar Rapids to initiate open heart surgery at a cost of \$1,470,906. The Council approved this project on November 15, 2016. A written decision was dated December 13, 2016, and issued on December 16, 2016. St. Luke’s filed an appeal of that decision in Polk County District Court, which is currently pending. St. Luke’s also asked the Court to enter a stay of the Council’s decision. Counsel for the State filed a resistance to the motion for the stay on behalf of the Council and the Iowa Department of Public Health; Mercy Medical Center in Cedar Rapids also filed a resistance to the motion for the stay. Following a hearing, the Court ruled that St. Luke’s

must first request a stay from the State Health Facilities Council prior to seeking a stay in Court.

The petitioner, St. Luke's Hospital in Cedar Rapids, was represented by Doug Gross of Brown Winick. Rebecca Brommel and Catherine Cownie of Brown Winick were present on the phone but did not speak. The applicant, Mercy Medical Center in Cedar Rapids, was represented by Ed McIntosh of Dorsey & Whitney. Caroline Giddings, representing Mercy Medical Center in Cedar Rapids, was present on the phone but did not speak.

The chairperson gave each party 15 minutes for oral arguments regarding the motion for stay.

A motion by Chambers, seconded by Thomas to DENY the motion for stay carried 5-0.

A motion to adjourn was made by Thomas, seconded by Chambers to adjourn passed unanimously by voice vote. The meeting was adjourned at 1:55 pm.

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

IN THE MATTER OF THE APPLICATION FOR REHEARING)
)
ON THE CERTIFICATE OF NEED FOR)
)
MERCY MEDICAL CENTER CEDAR RAPIDS)
)
CEDAR RAPIDS, IOWA)

DECISION
ON MOTION FOR STAY

This matter came before the State Health Facilities Council on April 28, 2017.

The project, initiation of open heart surgery at Mercy Medical Center in Cedar Rapids at an estimated cost of \$1,470,906, was originally approved by the Council on November 15, 2016. A written Decision was dated December 13, 2016, and issued on December 16, 2016.

St. Luke's Hospital in Cedar Rapids, an affected party who participated in the formal review procedure, filed an appeal with Polk County District Court and asked the Court to enter a stay of the Council's decision. The State filed resistance to the motion for stay, as did Mercy Medical Center in Cedar Rapids. The Court ruled that St. Luke's must first request a stay from the State Health Facilities Council prior to seeking a stay in Court.

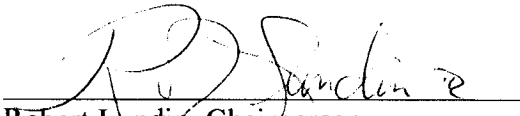
The petitioner, St. Luke's Hospital in Cedar Rapids was represented by Doug Gross of Brown Winick Law. The applicant, Mercy Medical Center in Cedar Rapids, was represented by Ed McIntosh of Dorsey & Whitney.

The record includes the original decision dated December 13, 2016, the written request for motion for stay, the written resistance to the motion for stay, and the ruling on the petitioner's application for stay.

Both parties provided oral argument regarding the motion for stay to the Council.

The Council, after reading the motion for stay and the resistance, and hearing the arguments of both parties, concluded that none of the grounds for the motion for stay contained in Iowa Code section 17A.19(5)(c) had been satisfied. The Council therefore voted 5-0 to Deny the motion for stay.

Dated this 30th day of April 2017



Robert Lundin, Chairperson
State Health Facilities Council
Iowa Department of Public Health

**Cc: State Health Facilities Council
Department of Inspections and Appeals
Health Facilities Division**