



MINUTES

Southern Nevada District Board of Health Meeting

625 Shadow Lane
Las Vegas, Nevada 89106
Clemens Room

Thursday, August 28, 2008 - 8:00 A.M.

Vice Chair Kirk called the meeting of the Southern Nevada District Board of Health to order at 8:04 a.m. and led the Pledge of Allegiance. Stephen Minagil, Legal Counsel confirmed the meeting had been noticed in accordance with Nevada's Open Meeting Law and that a quorum was present.

Board Members Present:

Steven Kirk
Ricki Barlow
Jim Christensen, MD
Susan Crowley
Robert Eliason
Joseph Hardy, MD
Tim Jones
Mary Jo Mattocks, RN
Linda Strickland
Lawrence Weekly

Vice Chair, Councilman, Henderson
Secretary, Councilman, Las Vegas
At-Large Member, Physician
At-Large Member, Environmental Specialist
Councilman, North Las Vegas
At-Large Member, Physician
At-Large Member, Regulated Business/Industry
At-Large Member, Registered Nurse
Councilmember, Boulder City
Commissioner, Clark County

Absent:

Chris Giunchigliani
Travis Chandler
Tom Collins
Frank Nemeec, MD
John Onyema, MD
Steven Ross
Barbara Ruscigno, RN
Gerri Schroder
Gary Reese
Stephanie Smith
Bubba Smith

Chair, Commissioner, Clark County
Councilmember, Boulder City Alternate
Commissioner, Clark County Alternate
Alternate At-Large Member, Physician
Alternate At-Large Member, Physician
Councilman, Las Vegas Alternate
Alternate At-Large Member, Registered Nurse
Councilwoman, Henderson Alternate
Councilman, Las Vegas
Councilwoman, North Las Vegas Alternate
Councilmember, Mesquite

Executive Secretary:

Lawrence Sands, DO, MPH

Legal Counsel:

Stephen R. Minagil

Other SNHD Board of Health Members/Alternates Present:

Lonnie Empey	Alternate At-Large Member, Environmental Specialist
Barbara Ruscigno	Alternate At-Large Member, Registered Nurse
Jimmy Vigilante	Alternate At-Large Member, Regulated Business/Industry

Staff: Michael Walsh; Scott Weiss; John Middaugh, MD; Angus MacEachern; Glenn Savage, Bonnie Sorensen; Malcolm Ahlo; Jo Alexander; Patricia Armour; Kara Bennis; Stephanie Bethel; Jerry Boyd; Mary Ellen Britt; Dennis Campbell; Elsa Cascos; Rory Chetelat; Sylvia Claiborne; Alice Costello; Joanne Engler; Betty Foss; Bob Gunnoe; Mary Ellen Harrell; Forrest Hasselbauer; Laurie Hickstein; Paul Klouse; Brian Labus; Eddie Larsen; Hetal Luhar; Dale Major; Ann Markle; Veronica Morata-Nichols; Patricia O'Rourke-Langston; Gwen Osburn; Margaret Patterson; David Reyes; Patricia Rowley; Jane Shunney; Leo Vega, Jennifer Sizemore; Chris Strickland; Leisa Whittum; Deborah Williams; Valery Klaric and Shelli Clark, recording secretary

ATTENDANCE:

<u>NAME</u>	<u>REPRESENTING</u>
Bud Cranor	City of Henderson
Bill Curran	Self
Shannon DeMond	Touro University Student
Kim Dao	CDC
Katie Fellows	Jones Vargas
M. S. Mattocks	Self
Kiren Mitruka	CDC
Sage Nagay	CDC
Suzanne Paulsen	State of Nevada
John Schleder	Las Vegas Kettle Corn
Tami Stigger	Bellagio
Julie Tracy	Las Vegas Kettle Corn
Diana Daniels	SEIU / SNHD
Gail Gholson	SEIU / SNHD
Diane Freeman	SEIU / SNHD

Vice Chair Kirk asked if there were any changes to the agenda. Dr. Sands indicated that item #8 on the Consent Agenda was withdrawn and will be brought forward at a future meeting.

I. CONSENT AGENDA

These are matters considered to be routine by the Southern Nevada District Board of Health and may be enacted by one motion. Any item, however, may be discussed separately per Board Member request before action. Any exceptions to the Consent Agenda must be stated prior to approval.

1. **Approve Minutes / Board of Health Meetings:** 7/24/08 & 8/14/08
2. **Approve Payroll / Overtime for Periods:** 6/28/08 – 7/11/08; 7/12/08 – 7/25/08 & 7/26/08 – 8/08/08

3. **Approve Accounts Payable Registers:** #1136: 7/03/08 – 7/10/08; #1137: 7/11/08 – 7/17/08; #1138: 7/18/08 – 7/23/08; #1139: 7/24/08 – 7/30/08; #1140: 7/31/08 – 8/06/08
4. **Petition #25-08:** Approval of Amendment Number 6 to Interlocal Agreement with Clark County on Behalf of Clark County Social Service (CCSS) for Funding to Provide Ryan White Part A Services (formerly Ryan White Title I Services)
5. **Petition #27-08:** Approval of Revised Classification Specification for Information Technology Supervisor, Recommended Schedule 26 (\$65,281 - \$91,087)
6. **Petition #28-08:** Approval of Revised Classification Specification for Communicable Diseases Supervisor, Recommended Schedule 26 (\$65,281 - \$91,087)
7. **Petition #29-08:** Approval of New Classification Specification for Information Technology Project Coordinator, Recommended Schedule 26 (\$65,281 - \$91,087)
8. **Petition #30-08:** ~~Approval of Interlocal Agreement between the Southern Nevada Health District and the University of Nevada School of Medicine Providing for Operation of the Southern Nevada Public Health Laboratory~~ ***Item withdrawn by staff***

Member Hardy asked that the minutes of the July 24, 2008 meeting be corrected, referencing the hepatitis C update presentation and stated that his comments should reflect hepatitis “B” not “A” as shown. The minutes will be corrected accordingly.

A motion was made by Member Christensen to approve the Consent Agenda as presented with the change to the July 24, 2008 minutes as noted; seconded by Member Mattocks and was unanimously approved.

RECOGNITION: 2008 Communicator Awards, Award of Excellence to XPOZ

Dr. Sands noted that the Office of Chronic Disease Prevention & Health Promotion received a 2008 Communicator Award, Award of Excellence for the XPOZ program. Deborah Williams, Manager of Chronic Disease Prevention & Health Promotion stated that XPOZ is the youth tobacco prevention coalition. XPOZ was formed in 2000 with 30 youths; today the membership exceeds 26,000. In 1999 and prior, smoking rates among youth were consistently between 33 and 35%. As of 2007, the Nevada Youth Risk Behavior Survey indicates the smoking rate dropped to 14%, which is largely contributed to the efforts of XPOZ. XPOZ focuses its activities on youth, including using gear. The International Academy of Visual Arts awarded XPOZ the award based on the gear created for this program.

Malcolm Ahlo, health educator, reported that XPOZ partners with over 30 local and national bands to promote XPOZ' message. The bands create the gear, including designs, company partners such as Dickie's and American Apparel, and distribute the gear at concerts and online. Over 70 bands have signed on to promote XPOZ in the coming year. An online training module is under development to educate teens about the dangers of tobacco. Mr. Ahlo shared samples of the gear with Board members.

Vice Chair Kirk acknowledged staff for their efforts and offered his congratulations on the award.

III. PUBLIC HEARING / ACTION

No Public Hearings scheduled

III. REPORT / DISCUSSION / ACTION

- 1. Committee Report: Southern Nevada District Board of Health Audit Committee:** Interim Report (Committee: Committee Chair Jones and Members Barlow, Christensen, Crowley, Mattocks and Smith)

Committee Chair Jones summarized the briefing held August 25, 2008. The audit is going well and the on-site process is more than 50% complete. The three areas of focus are federal grants for bioterrorism, hospital preparedness and immunization programs. The committee also asked the auditors to include the hepatitis C outbreak and its associated costs, the childhood lead poisoning prevention program and environmental health fees for industry. An interim committee meeting in the coming months will occur and the final report will be on the November agenda.

Vice Chair Kirk thanked the committee for their work.

The following two items are a verbatim transcription per the request of Member Hardy.

- 2. Committee Report/Recommendation/Action: Southern Nevada District Board of Health Chief Health Officer Annual Review Committee** (Committee Chair Kirk and Members Christensen, Giunchigliani, Hardy and Weekly)

Vice Chair Kirk: We did meet, came up with some recommendations that are found in your back up. I'll just quickly go over one of them. The motion made by Member Giunchigliani was to accept the composition and structure of the committee with five members, the timeline of March – May for the evaluation process of the chief health officer, implementation of a semi-annual review for an update on expectations and performance against goals, areas of evaluation would include all the items listed with the addition of Executive Management and Employee Relations and sub-categories of work environment, communication and the like. So, that really was the recommendation of the committee. You've probably read those in your back-up. You don't have any questions, comments or questions on that? Then we can move forward with the next item, or do we need a motion to accept that?

Mr. Minagil: That is an action item to accept the report and the recommendation.

Vice Chair Kirk: Then that would be my motion.

Member Christensen: Second:

Vice Chair Kirk: We have a motion and a second. Is there any discussion? All those in favor, please signify by saying "aye."

Board members in unison: Aye.

Vice Chair Kirk: Any opposed? Then that motion carries. Thank you.

A motion was made by Member Kirk to accept the committee's report and recommendations as presented; seconded by Member Christensen and was unanimously approved.

3. Direction to Southern Nevada District Board of Health Attorney Selection Committee:
Tasks, Timeline and Authority to Act without Further Board Action (Committee Chair Giunchigliani and Members Christensen, Hardy, Kirk, Strickland and Weekly)

Vice Chair Kirk: I think this is fairly important to us, and the reason we want to talk about this to the full Board is we won't meet again until after Mr. Minagil's gone. Our next one is the 29th of September... Something like that...

Mr. Minagil: 25th of September is the next Board meeting.

Vice Chair Kirk: And when is your last day?

Mr. Minagil: My last day is September 19th. I have extended my time.

Vice Chair Kirk: So what we'd like to do is and I think the discussion that at least I've had with Dr. Sands, is then to talk about this today and to allow the sub-committee the authority to go ahead and make the recommendation to Dr. Sands. Of course it would ultimately be your decision, Dr. Sands, as to who gets hired, but if there's a committee to have, to meet and discuss the attorney than that's what, if there's one selected, if the whole Board wants to act on it, we're not going to meet until Mr. Minagil's gone, so that's going to leave a hole, if you will. So we'd like to act, and allow the committee to help with the selection before the next meeting. So that's what we'd like to do and so we throw that out for discussion with other members of the Board.

Member Hardy: Mr. Chair.

Vice Chair Kirk: Dr. Hardy.

Member Hardy: I'm following up on your comment about it's ultimately Dr. Sands' ability to hire. I know we've had, I'll call it quasi-discussion, about this issue now in an open meeting to talk about this. The attorney, as I understand it, would be hired by the Board and I think we need to make sure we clarify who the attorney works for and who the attorney represents and who the attorney protects as in vis-à-vis the Board members, the Board and the Chief Health Officer. If that discussion needs to be had, then it's included in that agenda item.

Vice Chair Kirk: I think that's important because, I know at the City of Henderson, the City Attorney works for the members of the City Council – it does not work for the Manager. I think that's the way it is in the City of Las Vegas. Is that the way it is in Boulder City and other? I mean, how does the County work?

Member Weekly: Same.

Vice Chair Kirk: The same? So that would require, I think, a by-law change, wouldn't it, and I understand it that would require some legislative

action. Now Mr. Minagil, can we get your perspective and input on how you think the best, and is it most effective for you to work for the Chief Health Officer, or would it be more effective to have the attorney work for the members of the Board?

Mr. Minagil: I think the current arrangement is sufficient and adequately protects all the interests of the District.

Vice Chair Kirk: OK.

Mr. Minagil: I see as I represent the District. And the District is comprised of the Board of Health, and the district is comprised of the management who runs the District. I don't represent Dr. Sands – I represent the District of which Dr. Sands is the Chief Health Officer and in essence the executive manager. As part of that, I also represent the Board as well. So I'm here to represent you, as a body, I'm here representing the District, and working with Dr. Sands who is the Chief Health Officer of the District. I don't see any problem with that arrangement, with that summary of duties and obligations.

Member Eliason: Mr. Minagil, I guess my question would be then if we wanted to terminate you, is it Dr. Sands or the Board?

Mr. Minagil: It's Dr. Sands – the position is an employee position, it's not a contract position as previously. This is an employee classified position.

Dr. Sands: Right. And certainly both in the hiring and termination, addressing issues with the attorney, since the attorney does represent the Board as well as management of the District, I would want, in this case, also to have input from the Board before taking any action like that.

Vice Chair Kirk: I think the...

Member Eliason: Guess...I'm sorry...

Vice Chair Kirk: Go ahead.

Member Eliason: I guess my concern, and I've been through it, and that was with the City Manager that was difficult to contend with. And if you're answering and the Board has no authority to remove or replace the City Attorney, she or he is responsible to the City Manager and I think we have to separate those two so we get a clear vision of help when we need it and getting everything out in the open and truthful and that kind of stuff. I'm not saying anybody would not anything other than that but I found that a great way to handle it and our City wouldn't have had a difficult City Manager because then we're getting information that we probably wouldn't get otherwise.

- Member Jones: I think, if my understanding, is that the attorney's work, that you through discussion before, tends to be 90% dealing with the day-to-day operation of the District and departments as opposed to work that needs Board action or executive action. And so given that, it seems like there needs to be enough wherewithal for the attorney to really be dealing with District work as opposed to only being concerned with about Board work.
- Vice Chair Kirk: And my comment on that, and we've never had an issue, there's never been a problem, the only question I have is who's the client? In the City of Henderson, there's no question that we're the client – the City Attorney represents us and protects us and gives us legal advice on certain issues. And in a case where the attorney works for the Chief Health Officer, or in essence the City Manager, and doesn't work for the Board, there's never been a case where there's been any issue about that causing problems. I just wonder in the future if that might be the case. I know that there have been some quasi-public agencies where the manager has been giving the attorney direction to consult the Board members and tell the Board members certain things and I think sometimes that could be problematic. Because we want to make sure that we're represented. I don't think that would ever be a problem at the health district, but I just throw that out to the members of the Board – I think we ought to talk about it a little bit and see how comfortable everyone is about having the lawyer work for Dr. Sands as opposed to having the attorney work for us directly. So, I feel, my personal feeling is, that the attorney should work for us, but that's not how it's been and we've not had any trouble with that, but is there any comment or does anybody feel differently?
- Member Christensen: What about just a statement or a memorandum of understanding as a condition of employment, pretty much exactly what Mr. Minagil had said, who his client is, what his priorities are and what his oaths are and that his a condition of his employment. That he understands that covers us, in writing, as to exactly who your attorney-client privilege is, I would think.
- Mr. Minagil: I think the, excuse me, I think the current job description for the position specifies, you know, that I represent the district and that includes providing direction and guidance to the Board.
- Vice Chair Kirk: OK.
- Mr. Minagil: It also provides direction and guidance to management of the district, as well.
- Vice Chair Kirk: Has there ever been an instance when the management, it's been a legal issue, in which the management has been in opposition to the Board and has put the attorney in a situation where he is not quite sure who his client is.

Mr. Minagil: I haven't had that in the eight years that I've represented the district.

Vice Chair Kirk: OK.

Mr. Minagil: I've never had that, never been close to that.

Vice Chair Kirk: Dr. Hardy?

Member Hardy: I think this came up when we starting looking at a deputy or an assistant attorney. Who does the assistant attorney work for? Does the assistant attorney work for the attorney, who works for the district, or does the assistant attorney also work for the Board, who thinks that the attorney works for them? And so I think for lack of anything else, we need to clarify not only who the attorney works for, but make sure that in that net we also capture the temporary or the acting or the substitute attorney. But let me just throw this question out, when I look at how we work in a city or in a county with a county manager model or a city manager model, as a city councilman, I am in a position where I have to call somebody to get advice, for instance, the city attorney, whereas in the current structure where it may not be fully understood as a city councilman if I say to an employee I want you to do this and want you do that, I may be overstepping my bounds. So if I have, so the simple question would be who do I have to get permission from to ask staff a question or give direction in order to avoid the nitty-gritty problems of directing somebody that I don't have jurisdiction over and this came about when we started talking about the issues of who somebody's doing something to somebody and who's agenda is it that we're putting on the agenda and do we have a right to reach down into the health district and deal with personnel matters in the county managers/city manager concept, or in this case the CEO of the health district. That's a long-winded way of saying I think we have some issues and some problems that we have to address and clarify, but the most overriding thing is we need to do something now. I don't think we have the ability to wait for a bylaws change to recognize we need to replace somebody who's retiring. And for the record, we need to put some things on the record so that's it's clear what our understanding is so at least we have what I could call legislative intent where we can go forward with what we do, whether that's writing it down in the memorandum of understanding. But I think we have to make sure that we are right and we understanding each other, where we're coming from. Thank you.

Vice Chair Kirk: Very good. Thank you very much.

Member Strickland: Mr. Kirk? I would think that with respect to the attorney that the Board would be hiring the attorney and scope of employment of their attorney would already be through an MOU or some other avenue would be to represent the Board, would be represent the district in the manner that Mr. Minagil has been doing. And that

the associate attorney that we've talked about would be hired by the Board, but would be managed or supervised by the attorney, who is going to be a lead attorney that we're talking about hiring. So that the Board has that person under their employ, but the direction and management of that person would be by the lead attorney. I know in Boulder City we, as council members, direct the city attorney to do things; the city attorney represents us, he represents the city which appears to be what Vice Chair Kirk was talking about. And as council members, our actions as to employees are restricted by the terms of our charter and so we must comply with that. But I would think that in order to accomplish what we want, we want to make sure that the client's scope of the services is that the attorney we're hiring is broad enough to encompass everything that we want to do, we don't want to make it so restrictive; but we also want to have the opportunity to feel that we as a Board understand that we have this attorney/client relationship with the lead attorney and that we have the ability to terminate or to direct that attorney's services that are being provided to the Board. So I think it is an important issue, I think it could be handled merely by the retention of the attorney by the Board and by the expansion or delegation of the scope of the services that the attorney is providing so it is to the Board but also to the district, such as you're doing right now.

Vice Chair Kirk:

Thank you, that's good. And I think those are items we probably ought to discuss and Dr. Hardy makes a very good point – we certainly don't have time to make a bylaws change at this point. What we're talking about this morning is just giving direction to the subcommittee and whether or not the Board wants to give the authority essentially to the subcommittee to make a recommendation to Dr. Sands to move forward and hire one of these attorneys that we have resumes for.

Member Eliason:

Do we need to do that in a form of a motion?

Vice Chair Kirk:

I think we do.

Mr. Minagil:

Yes. The idea was that the Board may want to have the committee have the authority to make a recommendation to Dr. Sands without coming back here on the September 25 meeting to have the full Board vote on whatever the recommendation the committee wanted...

Vice Chair Kirk:

Or have a special meeting, which we won't do.

Mr. Minagil:

And we can specify by memorandum of understanding, specifying in greater detail the duties of the attorney. I agree with you, the associate attorney has the same obligation as the lead attorney does, represents the district, represents the Board, and would merely be under the supervision of the general counsel.

- Member Mattocks: But then in that MOU as well we would need to specify whose responsibility it is to do that attorney's evaluation. Will it be the Board, will it be a joint thing, if 90% of, you know, the work they do is actually for the district, we would definitely need to involve Dr. Sands and whoever he or she works for in the district and members of the Board to evaluate him.
- Vice Chair Kirk: Dr. Hardy?
- Member Hardy: The pain in the neck Board member. If we are assigning six...
- Member Eliason: We know a good doctor.
- Member Hardy: If we're assigning six members to the subcommittee, those six members would become a quorum for this body today.
- Vice Chair Kirk: Is a quorum six?
- Mr. Minagil: A quorum for this body is seven.
- Vice Chair Kirk: Seven.
- Member Hardy: Let me put it this way. We have ten people here, six of us represent a quorum that could make a decision that changes the world of the Southern Nevada Health District, that's called a quorum. So if we got everybody here, that's called not a quorum, but it is a quorum so that brings us back to my nitty-gritty question, do we really want to worry about having six people on a Board, on a subcommittee that could be construed as a committee, and I'm out of my legal depths right now, and I'm not anxious to give fodder for a issue of a subcommittee being enough to be the whole committee and getting into a legal mess over that. So that's my question for legal.
- Vice Chair Kirk: I can solve that by not being a member of this...
- Laughter
- Vice Chair Kirk: I'm happy to withdraw.
- Member Hardy: Wait, let me say this...
- Vice Chair Kirk: I beat you to it.
- Member Hardy: Let me point this out. I'm going somewhere with this, Mr. Chair. If we look at that committee as it's formally, as I understand it we're meeting after this meeting, is that right?
- Dr. Sands: That's correct.
- Member Hardy: So if we meet after this meeting, that takes off a person, meaning that the chair of the Board, who is not here, unless there's an

appointment. Is she going to be on the phone? Shucks. This was going to be so easy. But I throw that out not to be contrarian, but I think it's probably wise that we have that answered before we step into something and get into trouble. Thank you.

Vice Chair Kirk: Mr. Minagil, do you have any comments?

Mr. Minagil: I'm not sure I know what the question is.

Laughter

Mr. Minagil: No disrespect, Dr. Hardy.

Member Hardy: And so I'm not sure what the answer is to the non-question is either. If we have, I know there's a problem with sub-committees and if you have a sub-committee that has more that would make up a majority of the committee, then you're, I don't know if that's addressed anywhere.

Member Eliason: Are you saying, Dr. Hardy, that when those six come back to the Board they'd be able to control the Board when it comes back for a vote.

Member Hardy: Right.

Vice Chair Kirk: But they would make a quorum, and I think if there's any question on that then maybe five members as a sub-committee might, that's certainly less than a quorum, less than the number of people we have here to make up a quorum and so maybe just having a five-member committee would suffice. I understand the issue, it has to do with what constitutes a quorum. Is it the majority of the members present or is the majority of the members of the Board. My understanding was, it always had to be a majority of the members of the Board. So if we have a thirteen-member committee, a majority would be seven – doesn't matter how many people come to the meeting, you still got the seven votes, that's my understanding. I may be wrong, but that's the way I've always understood it.

Mr. Minagil: Right. This is a thirteen-member Board – you must have seven members to have a quorum and therefore to take action.

Vice Chair Kirk: Right.

Mr. Minagil: This Board has established a committee...

Member Eliason: Of six.

Mr. Minagil: ...six people on that committee. Of those six members, we need four of them today to be here for the subsequent meeting to take action.

Member Strickland: Right.

Vice Chair Kirk: So you would need me?

Mr. Minagil: Six members of the committee. Of those six, we need four present to take action.

Vice Chair Kirk: I understand.

Mr. Minagil: So that's the only issue.

Member Strickland: So there's not a problem.

Mr. Minagil: No.

Vice Chair Kirk: So, OK.

Member Hardy: So, Mr. Chair. So in our bylaws it's a thirteen-member Board, seven is quorum, period. No matter who's present.

Mr. Minagil: Seven members of the thirteen need to be present.

Member Hardy: Seven have to vote "yes" or "no" in order to make a determination of what goes forward.

Mr. Minagil: No. Seven members have to be present to have a meeting, to take action.

Member Hardy: So then four would be a quorum.

Mr. Minagil: No, four is the majority...

Member Hardy: A majority of the quorum.

Mr. Minagil: Yes.

Member Hardy: I have the same problem.

Member Crowley: Why is there a problem with having a majority of the quorum present?

Member Hardy: Because you've basically taken out people in this Board who no longer are participating in the conversation and you've de facto made a quorum out of six people.

Member Weekly: Isn't that the purpose of having sub-committees?

Member Jones: The purpose of this committee is to give advice...

Member Weekly: ...to make recommendation.

Member Jones: ...not to give...

- Member Eliason: Well, we was going to give them authority to take action.
- Member Christensen: Yeah, that's what are discussion was about, is to delineate the authority for this sub-committee to take action as time is of the essence and we don't want a lapse in representation.
- Vice Chair Kirk: You know, I think it's important just to remember that this sub-committee, or even us as a Board, we only recommend. We're not hiring this lawyer – you are, Dr. Sands. We're not...we're going to simply recommend. And so, it's almost like we're just giving advice, this is kind of who we think, and we're not really taking effective action as to who you're going to hire. You can totally disregard that we say as a recommending body on this item. So I don't see that we're taking definitive action as we take when we make a vote. This is simply a recommendation. So while I appreciate Dr. Hardy's position, and I understand the fact that we want to be very careful when it comes to Open Meeting, I don't think we're even close to violating it because we need seven members, if we had a sub-committee of seven members, and all seven members showed up, then my understanding is we'd have a problem. But we have a sub-committee of six and by the time we get to the end of this meeting, it's going to be five. I don't think we're going to have a problem. Maybe four.
- Laughter
- Mr. Minagil: Mr. Chair, the only issue, quite frankly, is whether the recommendation that the committee makes, do you want Dr. Sands to act on that recommendation without waiting for the full Board to vote on the committee's recommendation?
- Vice Chair Kirk: That's the issue...
- Mr. Minagil: That's the issue...
- Vice Chair Kirk: ...that we're talking about.
- Mr. Minagil: And so after today, we're going to, after this meeting, you're going to have a committee meeting. The committee may come to a consensus that they would recommend Dr. Sands to take action with Candidate A or with Candidate B...
- Vice Chair Kirk: OK.
- Mr. Minagil: Do you want Dr. Sands to act on that after today or do you want your recommendation to come back and be voted on by the full Board? That's the issue.
- Member Strickland: And I'll just throw out something. I cannot be a part of this and if it's appropriate hand my notes to somebody else. I kind of got volunteered to do this anyway.

- Member Weekly: Down to three.
- Member Barlow: I have a question.
- Vice Chair Kirk: Yes, Mr. Barlow.
- Member Barlow: If in fact, and I don't mean to digress, by any means, but early on the question came whether or not this Board was going to hire the attorney or if Dr. Sands would hire the attorney and then the question becomes who does the attorney work for. So if in fact the sub-committee is directing Dr. Sands to move forward with the action to hire the attorney, then the question then becomes who does the attorney work for, because if in fact the attorney works for the Board, then I believe that the Board should be the one to vote as to Candidate A, Candidate B. So once again, not to digress, but I need to basically put that back on the table for us to think about the decision as to the sub-committee moving forward with the recommendation to Dr. Sands' hiring that individual, then that individual basically saying well I was hired by Dr. Sands, I wasn't hired by the Board.
- Vice Chair Kirk: I think until the bylaws are changed, the way it is, is the lawyer will work for Dr. Sands. Now we may want to change that sometime in the future, but as we are today, this decision is made by the Chief Health Officer and not by the Board. So the lawyer does not work for us.
- Mr. Minagil: The lawyer represents the District, and included in the District is the Board of Health. I take direction from the Board.
- Vice Chair Kirk: OK.
- Mr. Minagil: I take direction from Dr. Sands. When any of you have a question, you call me and I provide guidance...
- Member Eliason: Let me butt in...
- Mr. Minagil: We're all on a team. I represent the team.
- Member Barlow: And by no means, no means am I not saying that the attorney, yourself, Mr. Minagil, don't represent the team, but I'm just speaking on behalf of the technical conversation that we're having right now when we get down to these decisions. So, I understand that you represent the team but looking at it, for example from the City of Las Vegas side or the, I'll just speak on the city side, our Council hires our City Attorney, not the City Manager. Both of them basically report to us, so I'm not saying that's the process in which we're trying to move in here, but I want to basically at least have that on the table for us to look at as an option.
- Member Eliason: Let me just muddy the water a little bit further. Going back to Dr. Hardy's thoughts, if the committee recommends A, Dr. Sands

hires B, then the majority of the committee controls the Board and then we're back to looking at Dr. Sands' evaluation and production. Do we want to put him in that position?

Vice Chair Kirk: All of us can second guess anybody Dr. Sands is going to hire. I mean we can do that today. I don't look at it like that; I look at our responsibility as members of this Board as simply making a recommendation and Dr. Sands you decide based on what you know, you may know a lot more than we do about who would best fit with the District. And so, I'm, based on the information and counsel we get from our lawyer this morning, I'm completely comfortable with the fact that the sub-committee can meet and the action that we're asking for this morning can be done without any problem.

Member Barlow: I second that motion.

Vice Chair Kirk: So there's a motion to move forward as recommended by staff; there's second. Is there any discussion? All those in favor please signify by saying "aye."

Board members in unison: Aye.

Vice Chair Kirk: Opposed? That motion carries. Thank you very much. The next item in public comment...

A motion was made by Vice Chair Kirk to afford authority to the sub-committee without further Board action; seconded by Member Barlow and was unanimously approved.

Member Hardy: Mr. Chair?

Vice Chair Kirk: Dr. Hardy?

Member Hardy: I'm a little slow today. I apologize. There was a comment, and I think I need direction if we're all going to be on the sub-committee. There was a comment made prior about making sure that we consider things like gender and ethnicity in this discussion and I am uncomfortable in discriminating against anybody on any matter and I think that would be important for us to have counsel tell us what is appropriate to consider and inappropriate to consider in our deliberations on that particular item – we can have that take place in the sub-committee I suspect, but I do...

Member Strickland: I agree.

Member Hardy: ...I do have a problem with that comment that was made.

Vice Chair Kirk: Very good.

Member Hardy: Thank you.

IV. PUBLIC COMMENT

Public Comment is a period devoted to comments by the general public, if any, and discussion of those comments, about matters relevant to the Board's jurisdiction will be held. No action may be taken upon a matter raised under this item of this Agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to NRS 241.020.

Vice Chair Kirk invited any individuals wishing to address the Board on matters under their jurisdiction to come forward. Seeing no one, Vice Chair Kirk closed the Public Comment portion of the meeting.

V. HEALTH OFFICER & STAFF REPORTS

Health District Staff Updates: Dr. Sands

Dr. Sands recognized Stephen Minagil and Mike Walsh for their service to the district. Mr. Minagil has served as legal counsel to the Board for eight years. Dr. Sands recognized his vast knowledge and expertise that will be sorely missed by the Board, staff and the community, including the state and local health authorities. Mr. Minagil has had much input into public health law in Nevada and his efforts are lauded throughout the state. Mr. Minagil has faced many challenges including enforcement of the Nevada Clean Indoor Air Act. Mr. Minagil has consistently risen to the occasion and arrives at solutions providing the best possible outcome for all parties, while ensuring the protection of public health. Dr. Sands publicly recognized his work, leadership, dedication and his endeavors to protect public health in Clark County.

Michael Walsh has served the last two years as the director of administration. During this time Mr. Walsh has done much to move the district forward and has been instrumental in developing a plan for a much needed replacement facility. His efforts have contributed to future planning for financial stability. During his 30-year career, he has been a top health care executive in the valley, including UMC and Valley Hospital. Mr. Walsh has played a significant role in shaping health care in the valley. Dr. Sands expressed his appreciation for his efforts and contributions and wished him a happy retirement and a successful future.

Dr. Sands introduced Scott Weiss, the new director of administration. Mr. Weiss has been a health care executive for the last fifteen years, working with several health care organizations. Mr. Weiss' style of communication and collaboration will be effective in helping the health district reach its goals. Mr. Weiss expressed his appreciation for the opportunity to be part of the health district and working with the Board.

Dr. Sands referenced the history of the mileage policy including the information section of the Board books. As this is currently a subject of negotiations, all current practices are continuing despite the inconsistencies.

Member Hardy sought to clarify the August 28th memo from Mr. Walsh, citing the third paragraph from the end which read: "Please note that neither my memo nor the policy paragraphs in question address any changes in either wages or compensation methods nor was salary compensation discussed at the Executive Team meeting of July 22, 2008." The June 20, 2008 memo discussed at length at the July 24, 2008 meeting also did not address this issue.

Mr. Walsh reported that the bargaining unit agreement dictates overtime and compensation guidelines. The information provided focused on travel which does not address salary compensation. Hourly compensation is not addressed in the travel policy or the accompanying memoranda; Mr. Walsh was asked to provide information relative to the mileage reimbursement

policy. There are policies and procedures to ensure correct adherence to the collective bargaining unit agreement. Mr. MacEachern will provide copies of the collective bargaining unit agreement and personnel code to the Board, both of which are approved by the Board.

Mr. Walsh reported that there are different applications of mileage reimbursement among divisions and the information provided show the process. A memorandum issued in 1996 stated that the district would pay mileage from home to work site and from work site to home when working weekends, holidays or night time work that was not simply an extension of the Monday through Friday work day. Approval of exceptions to the mileage policy was at the discretion of the division heads and subject to review by Administration. When a new policy is issued, such as the travel policy in 2001, it incorporates changes or previous language and any documents in existence issued prior to that time become null and void.

Vice Chair Kirk acknowledged the sensitivity of this issue and restated that the Board would like to be fair and equitable. He thanked staff for providing the information and agreed that there are areas for negotiation. He looks forward to a good conclusion of the issue.

Back to School Immunization Update: Veronica Morata-Nichols, Community Health Nurse Manager and Bonnie Sorenson, Director of Clinics & Nursing Services

Ms. Morata-Nichols reported that new mandates require all 7th graders to have a current Tdap vaccination. In 2007 staff saw over 14,000 children. To date in 2008, staff has seen over 19,000 children. Over 8,000 doses of Tdap were administered, over 7,000 doses of hepatitis A and almost 4,000 doses of varicella. The entire nursing department worked together. Staff throughout the health district rendered assistance during the back-to-school season. More detailed information will be provided at the next Board meeting.

Ms. Sorenson referenced the Vaccine for Children (VFC) presentation (**attached**) for private providers concerning proposed changes to be implemented by the State Health Division beginning January 1, 2009. The state is running out of money for vaccinations. Legislators from across the state agree that immunizations are very important – Nevada is currently at the bottom relative to immunizations and the pending changes will only worsen the current state of immunizations.

Dr. Sands clarified that with the pending changes, after January many insurers will need to fund vaccines that they were not paying for in the past. This is a major shift in how immunization services are funded and organized throughout the state. Ms. Sorenson said that participants in an ERISA (Employee Retirement Income Security Act) plan do not pay for vaccines and many of our plans are part of ERISA. Cost-shifting is a major cause of concern. When Nevada's immunization rates were 30-40%, universal select was chosen; going to a VFC only state could back-track the process.

Weekly meetings are occurring with the state. The media is very interested in this arena as well. VFC is only for those receiving Medicaid or Nevada Check-Up, are underinsured, are uninsured, are Native Americans or an Alaskan native. If a client has insurance with high deductible, the client is still considered insured. All clients are accepted at face value at the health district. On the practice side, if a physician contracts with an insurance provider for \$40 for varicella, and the cost is now \$90, the physician must pay the \$50 difference. This client is still considered fully insured. There were 186 VFC providers, and 30 VFC providers have dropped off.

Member Christensen said that a potential outbreak of diseases not seen for some time is forthcoming. Recently trained physicians have never seen mumps, measles and the like.

Member Eliason asked about outreach efforts for low income areas and schools in these areas. Ms. Morata-Nichols said that any assistance is welcome. Legislative action is needed to update ERISA and a national agenda to cover vaccinations. Everyone needs to get involved as there is no money at the state level. She is hopeful that other projects, such as well-baby vaccinations from ages 0-2 could be the focus due to the low vaccination rates. This could motivate parents to vaccinate children before they reach 2 years of age.

Member Eliason said that Martinez and CP Squires Elementary Schools are designated schools for the homeless shelters. Ms. Sorenson indicated that these children do qualify for VFC and will be covered. It is the underinsured and working poor who will be affected.

Dr. Sands said that those who are insured and have adequate coverage may not be able to receive vaccinations in their medical home if the provider is not administering immunizations, and then will come to the health district and be billed for those services. Ms. Sorenson said that we promote having a medical home, especially for vaccinations, but with the pending changes this will change drastically.

Ms. Sorenson said that United Way is hosting a meeting for area legislators in November and the Board will be invited. Access to prenatal care and immunizations will be the focus of the meeting. SNHD is hosting a VFC provider meeting on September 17th at 5:30pm and the Board is also invited to attend to hear the physicians express their concerns.

Dr. Sands said that loss of funding is at the federal level as discretionary funding has been cut. Formulas for funding distribution may also be outdated. Board members are invited to speak with their federal delegates and state legislature to express the importance of vaccination funding.

We are also looking at creating private and public partnerships to create funding streams. There are many proposals for review which could be beneficial to this effort.

Member Christensen asked if a blank form letter could be developed to take through the Clark County Medical Society and Nevada State Medical Association for providers to send to their respective representatives.

Member Weekly asked if the health district is talking with the jurisdictions about the upcoming legislative session, including funding mechanisms and other areas of interest. Dr. Sands indicated that he is meeting with county managers to coordinate legislative efforts. Staff is reviewing BDRs as they come through and tracking those of interest to the district. Joyce Woodhouse has proposed a bill to pay for some vaccinations, which we are following. Member Weekly said that speaking with the cities and their lobbyists can be a way to explain the importance of these issues. Ms. Sorenson said that we will be very active in the coming session.

Member Barlow thanked nursing staff for attending his back-to-school fair at the Doolittle Community Center. He said that the most important piece of the fair was not getting school supplies, but the opportunity to receive vaccinations.

Member Hardy asked about the district's supply of vaccines. Staff has an ample supply of Tdap. As of July 2, 2008 varicella was removed from the VFC list. By January 2009, HPV, Menactra, Pediarix, RotaTeq, Prevnar, hepatitis A and varicella will also be taken from VFC – these vaccines will be required for school admission but not part of VFC. Some vaccinations are very expensive and due to multiple dosing, the cost adds up rapidly. It costs \$1,400 to vaccinate a female through the age of 16 and \$1,200 for a male.

Member Hardy asked if vaccination expenses could also be provided to the Board members.

TB Program Update: Patricia O'Rourke-Langston, Community Health Nurse Manager

Dr. Sands acknowledged the work of the TB control staff and their efforts to track down active cases and ensure patients clients complete therapy. One case was recently completed after 7.5 years. Ms. Sorenson said that TB funding at the state level could also be in jeopardy. Last year at this time there were 58 cases, and there are 63 this year. At present there are 1,826 people on medication compared to 1,259 last year. Any loss of funding would be devastating to the health district.

Patricia O'Rourke-Langston asked that Board members use their influence to help stop any potential funding cuts to the TB program in the state. To illustrate the importance of TB funding, Ms. O'Rourke-Langston related that a patient was inherited in 2002 from Armargosa County and the TB control team assumed her care. Her therapy was concluded last week, which included IV medication 4 hours per day, 5 days per week. Staff obtained portocath certification and provided care in the least restrictive environment. Ms. O'Rourke-Langston recognized her staff in attendance for their efforts. David Reyes, disease investigation and intervention specialist and Betty Foss, senior medical technologist were recognized for their 30-plus years of service and presented with a certificate of recognition from the governor commemorating their retirement.

There are an average 5,500 encounters per year which range from a phone call from a physician to delivering direct observed patient therapy to field work to locate individuals. An average of eight new cases are identified each month. Staff conducts an average of eight contact investigations per month.

In February 2008, an undocumented individual who is a member of a drug crew/ring with a criminal background came to the staff's attention. Largely in part to the efforts Mr. Minagil and the TB control staff, the individual was located in Maricopa County, Arizona where he is incarcerated in a hospital ward. A second hearing is scheduled for today to continue his involuntary isolation and quarantine. As a result of the contact investigation for this individual, staff asked CDC for assistance. The assigned EPI-AID team will describe the epidemiology of the outbreak, identify and prioritize the contacts of affected persons for evaluation and treatment, determine the chain of transmission, and provide recommendations to stop further transmission of TB.

There are seven confirmed cases of TB related to this individual, including two children, and the life of one of those children was saved through the efforts to the TB control staff.

Ms. Sorenson said that staff is working closely with the police department. A task force between the sheriff, correctional facilities, attorneys and staff to better facilitate handling of these types of cases. A working relationship with the correctional facilities is essential to increase aware of TB in the jails and to ensure collaboration between staff and the jails. It is optimal to treat individuals in the least restrictive environment, and we are using GPS-devices to track some individuals. In the future we will need methods to hold and monitor individuals and staff is appreciative of Maricopa County's assistance in housing this particular individual.

Hepatitis C Registry Update: Brian Labus, Senior Epidemiologist

Brian Labus updated the Board on the hepatitis C exposure registry. To date nearly 7,000 enrollment forms have been received. Staff has verified the identity of 75% of the enrollees. A procedure date could not be verified for 300 of the individuals. About 75% of the enrollees are Shadow Lane patients and 25% are from the Burnham facility. A disease evaluation has been completed on about 650 people.

Responses have been received from 43 states, however 95% came from Clark County. The average age of the enrollee is 65. Over 4,000 people provided answers to the risk questions, including some who did not test positive. 91% of respondents indicated no risk factors; of those reporting a risk factor 90% reported having a blood transfusion prior to 1992. Over 96% of Shadow Lane patients reported being tested and 80% of Burnham patients have been tested.

As a result of the outbreak, the label on propofol has been changed to “for single patient use only.” Botox comes in 100-unit vials and some patients require 10-15 units for a procedure. Botox vials were being treated as multi-dose vials and used for multiple patients even though they were labels “for single patient use only.” The company has now release a new vial of 50 units resulting in less waste and a decreased chance of reuse in another patient.

Mr. Labus expressed his personal thanks for Mr. Minagil for his assistance during the outbreak investigation.

Vice Chair Kirk thanked staff for the presentations.

VI. INFORMATIONAL ITEMS

DULY NOTED

A. Chief Health Officer and Administration:

1. Monthly Activity Report, Mid-July 2008 – Mid-August 2008
 - a. Letter from the Center for Health Disparities Research at UNLV inviting Dr. Sands to participate on the advisory committee
 - b. Email from Senator Reid concerning Appropriations Bill S. 3230
 - c. Email from Cathy Reel to Dr. Sands concerning August “Bagels with the Boss”
 - d. Mileage Reimbursement Report
2. Financial Data: Revenue and Expenditure Report for General Fund, Capital Reserve Fund and Public Health Laboratory Fund for the Month of July 2008
 - a. Grant and Agreement Tracking Report, as of August 15, 2008
3. Public Information Monthly Report, Mid-July 2008 – Mid-August 2008
 - a. Editorial by John Packham from the July 29, 2008 Reno Gazette-Journal concerning the Trust Fund for Public Health

B. Community Health:

1. Monthly Activity Report, July 2008
 - a. Measles Technical Bulletin
 - b. July 2008 Disease Statistics

C. Environmental Health:

1. Monthly Activity Report, July 2008
 - a. Certificates of Appreciation to EH employees Lisa Loyania and Briso Soto from Ann Ann Lynch Elementary School
 - b. Letter of Appreciation to Training Officer Susan LaBay from NPFMA
 - c. Email from Adele Solomon to EH Manager Steve Goode concerning main counter administrative staff
 - d. Letter of Appreciation from UNLV Intern to EH Manager Dennis Campbell

D. Clinics and Nursing:

1. Monthly Activity Report, July 2008
 - a. Monthly Statistical Report – July 2008
 - b. In-service Schedule – July 2008
 - c. Rare TB Cases
 - d. Letters of Appreciation

VII. ADJOURNMENT

There being no further business to come before the Board, Vice Chair Kirk adjourned the meeting at 9:32 a.m.

SUBMITTED FOR BOARD APPROVAL

Lawrence Sands, DO, MPH, Chief Health Officer
Executive Secretary

/src

attachment