



## MINUTES

### ***Southern Nevada District Board of Health Meeting***

625 Shadow Lane  
Las Vegas, Nevada 89106  
Clemens Room

***Thursday, January 22, 2009 - 8:00 A.M.***

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

**Board Members Present:**

Chris Giunchigliani  
Steven Kirk  
Jim Christensen, MD  
Susan Crowley  
Robert Eliason  
Tim Jones  
Mary Jo Mattocks, RN  
Bubba Smith  
David W. Steinman  
Linda Strickland

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

**Absent:**

Ricki Barlow  
Joseph Hardy, MD  
Lawrence Weekly

Secretary, Councilman, Las Vegas  
At-Large Member, Physician  
Commissioner, Clark County

**Executive Secretary:**

Lawrence Sands, DO, MPH

**Legal Counsel:**

Stephen F. Smith, Esq.  
Shaun Haley, Esq.

Fisher & Phillips

**SNHD Lobbyists:**

Bryan Gresh  
Gary Milliken

**Other SNHD Board of Health Members/Alternates Present:**

Lonnie Empey  
Barbara Ruscigno, RN  
Jimmy Vigilante

Alternate At-Large Member, Environmental Specialist  
Alternate At-Large Member, Registered Nurse  
Alternate At-Large Member, Regulated Business/Industry

**Other SNHD Board of Health Members/Alternates Not Present:**

Travis Chandler	Councilmember, Boulder City Alternate
Tom Collins	Commissioner, Clark County Alternate
Frank Nemecek, MD	Alternate At-Large Member, Physician
John Onyema, MD	Alternate At-Large Member, Physician
Steven Ross	Councilman, Las Vegas Alternate
Gerri Schroder	Councilwoman, Henderson Alternate
Stephanie Smith	Councilwoman, North Las Vegas Alternate

Staff: Scott Weiss; John Middaugh, MD; Angus MacEachern; Glenn Savage, Bonnie Sorensen; Patricia Armour; Maria Azzarelli; Mark Bergtholdt; Stephanie Bethel; Jerry Boyd; Dennis Campbell; Rory Chetelat; Nicole Chacon; Joanne Engler, Craig Erskine; Kay Godby; Steve Goode; Mary Ellen Harrell; Lance Johnson; Angela Jones; Paul Klouse; Sue Kolrep; Eddie Larsen; Brian Labus; Ann Markle; Christina Madison; Kieawa Mason; Veronica Morata-Nichols; Patricia O'Rourke-Langston; Gwen Osburn; Naim Qazi; Chris Reynolds; Patricia Rowley; Jane Shunney; Leo Vega, Jennifer Sizemore; Jorge Viote; Leisa Whittum; Lourdes Yapjoco; Deborah Williams; Valery Klaric and Shelli Clark, recording secretary

**ATTENDANCE:**

<b><u>NAME</u></b>	<b><u>REPRESENTING</u></b>
Aimee Abad	Student Pharmacist - USN
William Billings	Action Pools
Petya Bolova	LEA Engineering
Joz Blochujua	Community Pools and Spas of Nevada, LLC
Cheryl Bunch	SEIU
Larry Calavan	Calavan's Pool Service
Peg Calavan	Calavan's Pool Service
Guy Corley	Heritage Pools
Ron Hair	Adams Pool Solutions
L. Earl Hawley, Esq.	Nevada Construction Clean-Up
Michael W. Hoy	K & M Diversified
Michelle Hoy	K & M Diversified
Travis Jeffrey	K & M Diversified
John Marchiano, Esq.	Self
Larry Marr	Self
Donna Russell	PGAL
Penny Shaver	Pool Safety Consortium
Wendy Smith	Self
Daniel Stewart	Jones Vargas
Annette Wells	LVRJ
Diane Freeman	SEIU / SNHD
Gail Gholson	SNHD
Jane Kopczak	SNHD

**OATH OFFICE:**

Stephen F. Smith, Esq., Board Legal Counsel, administered the Oath of Office to David W. Steinman, newly appointed representative from the City of Las Vegas.

Chair Giunchigliani welcomed Mr. Steinman to the Board of Health. She noted that we have a good group and that the charge is to serve is very important, especially during these difficult economic times. She further noted that former Board member, Mayor Pro Tem Gary Reese would be recognized for his years of service at the next Board of Health meeting.

**RECOGNITION:**

- **Aid for AIDS of Nevada: Sue Kolrep, RN – Senior Public Health Nurse  
Lourdes Yapjoco, RN–Community Health Nurse II/Case Manager**

Mary Ellen Harrell, public health nurse manager, recognized Ms. Kolrep for her twenty-five years of services and noted that January 30<sup>th</sup> will be her last day of employment. Ms. Harrell stated that both employees were honored with the “Right to Wear Red” badge from Aid for AIDS of Nevada, for their efforts going above and beyond what anyone could hope to do in working with AIDS patients throughout the community. Chair Giunchigliani wished Ms. Kolrep well on her pending retirement and congratulated both employees for their recognition and efforts.

- **2008 Silver Syringe Awards: Chris Reynolds – Outstanding Adult Immunization  
Veronica Morata-Nichols – Community Partnership  
Jennifer Sizemore – Outstanding Communication Program**

Dr. Sands noted that each year the Northern and Southern Nevada Immunization Coalitions recognize community members throughout the state to further the immunization effort. This past November three of our employees received Silver Syringe Awards for their accomplishments:

Jennifer Sizemore and the Public Information Office were honored for the “Sock it to the Flu” media campaign – this commercial receives a great deal of air play during the flu season and other states have asked for permission to use this campaign to promote flu vaccinations and good health practices;

Chris Reynolds was recognized for his efforts in promoting the Twinrix Vaccination program offered at the Gay and Lesbian Center;

Veronica Morata-Nichols was recognized in partnership with the Clark County School district for the adolescent Tdap program and raising 6<sup>th</sup> grade Tdap immunization rate from 27% to over 90% in eight months.

- **March of Dimes: Kay Godby – Senior Public Health Preparedness Planner**

Ms. Godby was awarded the March of Dimes Nurse of the Year award for the category of Public Health, Ambulatory Care and Behavioral Health. The award was sponsored by SNHD and Kay was nominated by her peers in a class of 24 categories with over 1,000 nurses nominated in all. Ms. Godby was nominated for her diligent work with the community by organizing over 60 people in the community as our stakeholders in patient mass medical surge all-hazard situations, including pandemic influenza. Ms. Godby also drafted a community plan to care for the public including triage protocol for a medical surge, alternate care sites, mass prophylaxis for first responders, infection control recommendations, continuity of operations and mass fatality planning.

Chair Giunchigliani noted that each recipient is the face of public health and stated that she appreciates their efforts and teamwork.

**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.

Chair Giunchigliani requested that item #5 be held for Report/Discussion/Action to parallel similar topics submitted for approval.

1. **Approve Minutes / Board of Health Meetings:** 11/20/08 & 12/18/08

2. **Approve Payroll / Overtime for Periods:** 11/01/08 – 11/14/08, 11/15/08 – 11/28/08, 11/29/08 – 12/12/08 & 12/13/08 – 12/26/08
3. **Approve Accounts Payable Registers:** **#1154:** 11/07/08 – 11/13/08; **#1155:** 11/14/08 – 11/20/08; **#1156:** 11/21/08 – 12/04/08; **#1157:** 12/05/08 – 12/12/08; **#1158:** 12/13/08 – 12/17/08; **#1159:** 12/18/08 – 12/23/08; **#1160:** 12/24/08 – 12/30/08; **#1161:** 12/31/08 – 1/07/09
4. **Petition #41-08:** Approval of Ratification of Interlocal Contract between Southern Nevada Health District and the University of Nevada, Reno Providing for Responsible Official for the Southern Nevada Public Health Laboratory
5. **Petition #02-09:** ~~Approval of Revision of SNHD Personnel Code in Accordance with the New Union Contract –~~ ***deferred to Report / Discussion / Action***
6. **Petition #03-09:** Approval of Syphilis Elimination Service Awards for Calendar Year 2009
7. **Petition #04-09:** Approval of HIV Prevention Service Awards for Calendar Year 2009
8. **Petition #06-09:** Approval of Agreement with the County of Clark and the Clark County Fire Department to Conduct Underground Storage Tank Inspections in Unincorporated Clark County under the Authority Granted by State and Local Law to the Clark County Fire Departments
9. **Petition #08-09:** Approval to Change Positions of Applications Programmer Analyst I/II, Computer Systems Analyst, Database Administrator and Information Technology Systems Administration I/II from Bargaining Unit Ineligible (Confidential) to Bargaining Unit Eligible

Chair Giunchigliani asked if there were any further changes to the Consent Agenda or discussion on specific items; seeing none she called for a motion to approve the Consent Agenda.

*A motion was made by Member Crowley to approve the Consent Agenda as presented with item #5 deferred to Report / Discussion / Action; seconded by Member Christensen and was unanimously approved.*

### **III. PUBLIC HEARING / ACTION**

1. **Memorandum #23-08:** Application for Approval for K&M Diversified to Operate a Solid Waste Management Facility – Recycling Center, Located at 4395 S. Cameron Street, Ste. C, Las Vegas, NV 89142 (APN 162-30-301-014)

Chair Giunchigliani declared the public hearing open.

Naim Qazi, plan review manager, spoke relative to this matter. Mr. Qazi said that K&M Diversified has met all requirements for a recycling center as specified in Section 4 of the Recycling Center Regulations and satisfied all special use permits require by Clark County. The 4,800 indoor facility is located in an industrial zone where recycling is allowed; they will process no more than ninety cubic yards of carpet foam at any one time. The pads will be compacted with an on-site machine; the compressed pads will then be shipped off-site for processing. Staff recommends approval based on conditions and final inspection. Michael Boyd, representing K&M Diversified was present to answer questions of the Board.

Chair Giunchigliani asked Mr. Boyd if the restriction imposed would allow him to conduct his business adequately. Mr. Boyd said this restriction would not impact operations. Chair Giunchigliani asked if he understood and agreed with the conditions as outlined and in agreement. Mr. Boyd responded affirmatively.

Chair Giunchigliani asked if anyone from the public wished to speak to this matter. No one came forward to speak and Chair Giunchigliani closed the public hearing.

*A motion was made by Member Christensen to approve the application as submitted with the conditions outlined in the memorandum; seconded by Member Mattocks and was unanimously approved.*

**2. Memorandum #05-09:** Adoption of the Proposed Regulations Governing Temporary Permits to Operate Solid Waste Disposal Sites; Consideration of Business Impact Statement

Chair Giunchigliani declared the public hearing open.

The following is a verbatim transcription of the public hearing concerning Memorandum #05-09.

Dr. Sands: That is the adoption of the Proposed Regulations Governing Temporary Permits to Operate Solid Waste Disposal Sites and Consideration of Business Impact Statement. Mr. Dennis Campbell, our solid waste compliance manager as well as Craig Erskine, our solid waste supervisor will be presenting on this item and will be glad to answer any questions the Board might have.

Dennis Campbell: Good morning, Madam Chairman, members of the Board. Under Nevada Revised Statutes 444.553(2) requires anyone that's operating a solid waste disposal site in Clark County to obtain a permit from the Solid Waste Management Authority. In the past, this has created some hardship in that some types of facilities have had to cease operations until they received their permit, and the permitting process could take a long period of time. So based on some concerns that we had from the regulated community, the solid waste & compliance section developed a set of regulations that you have before you to issued temporary permits to certain types of solid waste disposal facilities that would not impact public health, or safety or the environment. These regulations are consistent with the other solid waste management regulations that we have for Clark County; we follow the same format that we used in all our other regulations so they are consistent and we went out for public comment – we had four public workshops and we received over twenty pages of comments on these regulations. All of the comments were addressed both at the workshop, and once we compiled all the comments, each person who provided comments to us received a written response on how we were going to address their concerns or their comments. So based on that we, these permits would only be for six months – that would allow businesses to continue to operate, be subject to our inspections and to make sure they stay in compliance with the solid waste management laws and regulations, and then at the end of that six-month period we would hope that they would be coming before the Board of Health for a permanent permit to operate a disposal site. But in the meantime, it would allow them to continue to operate, pay their bills, and have income coming in so that we don't force anybody out of business.

Chair Giunchigliani: So the six-month, you said, I hope...

Mr. Campbell: Well...

Chair Giunchigliani: What's the standard that actually comes in...I would think they have to convert to a permanent...

- Mr. Campbell: ...within six months they would have to convert to a permanent permit and provide...in the case that there is extraneous circumstances, something happens, they do have the ability in these regulations to apply for a three-month extension so that they can continue to work through the permitting process.
- Chair Giunchigliani: Do our non-profits then also, I think we have the blind center that does some recycling. Are they in compliance, or would this allow them to also now get in compliance?
- Mr. Campbell: Currently the blind center is not a permitted facility...
- Chair Giunchigliani: OK...
- Mr. Campbell: ...and so they need to come in and become permitted. Since they haven't submitted an application they could come in for a temporary permit. At this point they're one of the few, right now that we're aware of, that could come in for a temporary permit while they work through the permitting process.
- Chair Giunchigliani: Will we notify those types of groups that we know of that are not in compliance so that they either get on board or they don't...
- Mr. Campbell: As we find them we will be notifying them that they can get a temporary permit. Most of the ones that are in the permitting process now would not be eligible for these temporary permits, because they've already started down for land-use, business licensing, and all the other requirements that come in before we can issue a permit.
- Chair Giunchigliani: And then the temporary would allow them to apply for any land-use or zoning permit from the local government that they apply?
- Mr. Campbell: Land-use they would have to have prior to getting a temporary permit, and they would also have to apply for a temporary business license, and they would also have to provide us with financial assurance so then if they decide to go out of business before they get their permanent permit...
- Chair Giunchigliani: Close it down correctly...
- Mr. Campbell: ...they can close it down.
- Chair Giunchigliani: Questions from the Board? Tim?
- Member Jones: Is there any estimated relative cost to just going straight ahead versus a temporary permit?
- Mr. Campbell: We did a business impact...what would happen is if they went ahead for a permanent permit, they would have to shut down, because they can't operate a solid waste disposal site without a permit. And what we've had happen in the past is we would go out with a cease & desist order, they'd have to stop operating; if they failed to stop operating then we'd go forward with a notice of violation and the penalties range from \$500 to \$5,000 per day per count. So the finance...if they go get a temporary permit, then we won't have to go forward with a thing, and the way we set up the fee schedule is half the normal operating permit and half the normal plan review fee.

- Member Jones: So somebody planning to start business now could make a decision to just wait to get a full permit or...
- Mr. Campbell: They could.
- Member Jones: ...they could make the decision to get a temporary permit. What would be the cost of this?
- Mr. Campbell: If they went forward with a full permit...
- Member Jones: They do the temp then they do a full, how much more would they pay to operate their business?
- Mr. Campbell: Once they get their permanent permit, they would have to pay the full amount for costs of plan review, the plan review application fee, which varies with types of facilities and then their annual operating permit. So it could be probably, well we're proposing with temporary permits be half the fee for both plan review and for the operating permit. And then if they went forward, they would have to pay the full amount for the permanent permit.
- Member Jones: And ultimately if they were going to go into an ongoing business, you'd pay 150% of the cost and fees.
- Mr. Campbell: Correct.
- Member Jones: Thank you.
- Chair Giunchigliani: How many extensions are they permitted?
- Mr. Campbell: One.
- Chair Giunchigliani: One.
- Mr. Campbell: Only one for extraordinary circumstances.
- Chair Giunchigliani: And do you define that somehow?
- Mr. Campbell: Extraordinary could be almost anything, but what we're looking at is if they get held up with their going forward with the permits from other jurisdictions...
- Chair Giunchigliani: They're in the works, so they can verify that?
- Mr. Campbell: Right. If they can bring us the information and say we're having problems getting permits, building permits, whatever it is, or approvals through the City of Las Vegas, Clark County, whatever it is, then we can consider extending it out for another period of time.
- Chair Giunchigliani: Questions? Bubba?
- Member Smith: Thank you, Madam Chair. So I might understand, that when we find these that are in violation, that are operating without the permit from the Southern Nevada, that we continue to let them operate during the time that they're applying for the temporary, because there's a number of things that they have to achieve before then can even get the temporary.

- Mr. Campbell: For example, for a temporary permit what we're looking at is getting those permits issued within, I think it's 45 days, because we have to have some time to review their operation and there has to be a period of public notice like all other permits that we issue for solid waste disposal sites. We would probably be working with them on that part of it; what we don't want to see, and what we have seen, is we've had some recycling centers that have been operating without permits and once we found them, we had to stop them, issue a cease & desist order and they had to stop operating or they were in violation.
- Member Smith: So with this change, during that 45 days that we're working with them, they stay in operation?
- Mr. Campbell: Because we know they're going to be applying for the temporary permit, we can allow them to do that as they're working.
- Member Smith: So really they have not only the six months, but that 45 days that we're working with them that they're operating with a permit?
- Mr. Campbell: Basically the six months, we would consider from a compliance standpoint, the minute they submit their application, that's when the six months starts. Because a lot of the materials we're going to be asking for the temporary permit can rollover to in applying for the permanent permit as well.
- Member Smith: Do we have something in place where, I assume that when we find these people that are out of compliance, that don't have a permit, that they also don't have a business license, because most jurisdictions have some kind of stipulation in place where we're only giving approval of a business license if they already got permission from the Southern Nevada Department of Health, and it says that they have to have, be in the process of getting the business license.
- Mr. Campbell: Right, that's correct.
- Member Smith: But some jurisdictions, you know, if they come to us and say, you know, we're operating without a permit, but would like to get a business license. Some jurisdictions may not want to have solid waste business there. So is there something in place, or is it up to the jurisdictions, I just want to know if it's up to the jurisdictions to say we need to contact you and say, no we denied that business license.
- Mr. Campbell: We work with business licensing and if they deny a business license or land use, we can't move forward with our permit. So, and we have found recycling centers that are operating without business licenses. We had one over the weekend that we caught and we're actually in the process right now of issuing a cease & desist order and a notice of violation because they're operating a recycling center without land use, without business licensing, without permit from the Solid Waste Management Authority, so those kinds of things...If we go forward and get contacted, we're getting these applications if, if we get a thing from one of the jurisdictions that we're not going to issue land use or we're not going to issue a business license, we can't go forward with our permit.
- Member Smith: So there are certain parameters that would shut them down, cease & desist...they don't have land use, they don't have...

- Mr. Campbell: That's correct.
- Member Smith: ...they're operating outside the parameters you've set forward, and they're in violation already you would go ahead and shut them down until they at least achieved some of those items and then they can apply for the temporary. So there actually is circumstances where they can be shut down.
- Mr. Campbell: Yes, there is.
- Member Smith: Thank you.
- Chair Giunchigliani: And is there a notification to the local government when you do find them without a permit and so forth?
- Craig Erskine: Yes.
- Mr. Campbell: Yes. My compliance staff, we have one section that deals with commercial operations and permitted disposal facilities and they do get a hold of code enforcement, business licensing and the other...
- Chair Giunchigliani: Whatever might be appropriate?
- Mr. Campbell: Yeah, whatever might be appropriate.
- Chair Giunchigliani: Thank you. Linda, you had a question.
- Member Strickland: Yeah, when you find these facilities operating without a permit, besides the cease and desist, do you fine them, monetarily fine them?
- Mr. Campbell: Yeah, if we, when we move forward with a notice of violation, we take them through our hearing officer process first. And there is a penalty associated with it, through the NRS. Penalties range from \$500 to \$5,000 per day per count. So if we were to go on a facility and we've caught them three or four times operating without a permit, we normally start our penalties at \$900 per count. And then based on what we find and when we take it before the hearing officer, the hearing officer can do one of four things: he can dismiss it, he could go with what the health district recommends for a penalty, he can increase it, or he can decrease it to the minimum. And it's up to our hearing officer when we present our case what the administrative penalty will be assessed at.
- Member Strickland: And I'm assuming that they pursue collection of that prior to issuing a permit?
- Mr. Campbell: If a hearing officer issues a hearing officer order, the penalty has to be made in full, well whatever the penalty is, prior to getting that permit issued. We won't allow it to move forward without them complying with the hearing officer order.
- Chair Giunchigliani: Good question. Thank you. Susan.
- Member Crowley: I have actually two, one question, and the first is just a comment. The rules are needed, we know that and the method that we're applying here is consistent with the way the state handles permitting and in that you can get a temporary permit which will support you while you're getting that permanent

permit, but there's one exception and that's the extension is a six-month extension rather than a three-month extension, giving you better flexibility in being able to respond to whatever it was that caused the extension request. I'd ask us to consider, as a Board, that if we're going to adopt these rules today that we consider that. It just gives our staff better flexibility to accommodate something that would cause us to provide the extension in the first place. The second is, I'd really like to hear from anybody in the public hearing before I decide whether or not I can vote positively on these rules, only because it seemed as if the thread going through every public workshop that we had was that they had problems with the language, in that it wasn't clear enough and it was succinct to the purpose. Now, having said that I still want to compliment you on getting done what we got done as a first draft, but I want to hear from the public about whether or not the language that we see today has corrected those problematic phrases. In some cases, I'm sure we were able to; in some cases we might not have been able to, but I'd like to hear from the public about whether or not we've actually accommodated their concerns. And if we haven't been able to and it's for a reason, but I'd like to hear from the public first.

Chair Giunchigliani: Thank you. We'll come back. Susan, restate your first one, about the extension.

Member Crowley: The permit itself, the temporary permit is a six-month duration and you explained that we can offer an extension for cause for three months. I'd like to consider that to be six months rather than three months.

Chair Giunchigliani: Thank you. Tim?

Member Jones: Are there some known operations right now that have no permit and what will be the actions with those operations once they become?

Mr. Campbell: We have some non-profit facilities that do not have a permit to operate. They are operating recycling centers. Under this one, since they haven't applied for a permanent permit, they could apply for a temporary permit under these regulations, and hopefully we'll get them moving towards getting a permanent permit. We do have some others, and we find them in normal course of business, and we've been contacted about some other potential recycling operations coming in to the county and in those cases, and the thing I failed to mention is this would only apply to like recycling centers, materials recovery facilities that can handle construction and demolition waste only, and construction and demolition waste short-term bin storage facilities. Things like landfills, composting plants, transfer stations, those kinds are not eligible for this because of the potential impact to the environment, public safety and public health. So it's limited to...

Member Jones: Do we have any problem in working with the non-profits to say we're look the other way for a while versus somebody who's in the for-profit business and tell them that they'd better get a move on?

Mr. Campbell: We have a list that we've been working down and really trying to get them, bringing them in to us, and we just haven't got to that portion of our list at the moment.

Member Jones: How many of those do you think exist?

- Mr. Erskine: Unpermitted?
- Member Jones: Unpermitted.
- Mr. Erskine: Probably a half dozen.
- Member Jones: Including the non-profits?
- Mr. Erskine: Including the non-profits, yes sir.
- Chair Giunchigliani: Thank you. Jim?
- Member Christensen: Is the non-profits, are they out of compliance because of ignorance or are they out of compliance because sometimes are they not for profit. Having run one that was regulated by the Board of Health, strained my budget at the time. And is there a provision for, perhaps not for profit hardships where they could have sliding scales or something? Some of them do good work, well-intentioned, just bad on the performance.
- Mr. Campbell: Two of the non-profits that have come to mind have been told they need to come in and apply for permits. Why they haven't we don't know yet. Maybe we have not been approached, that I'm aware of, about reducing their operating permit or anything like that, but it might be something we could consider.
- Member Eliason: Glenn. Glenn can't sit there.
- Glenn Savage: We've had a couple of the non-profits that have called. They would like the Board to someday consider a non-profit status that would be exempt from some of the fees, but would work with getting a permit and we work with them on their operational plans to make sure they're environmentally compliant. Opportunity Village is one, the blind center is the second group. So, I imagine we'll probably be back before the Board at some time asking for that kind of discussion.
- Member Christensen: Yeah, having been in that position, I was regulated and said you had to do x,y, and z and then said OK, how do you do that? Well I can't tell you that. No, you need to help me out through the process.
- Chair Giunchigliani: So that's a good discussion. Linda, then Bob.
- Member Strickland: Yeah, I just wanted to point out I think that's important that we look at the non-profit status so that we can avoid allegations of selected enforcement of our provisions here because if we're more actively pursuing the for-profit versus the not for profit, even though our heart may be for the non-profit, you've got to make it equal.
- Chair Giunchigliani: Good point. Bob?

Member Eliason: I was going to ask Glenn after the meeting, but now as you stood up there...So, Betty Lane, Alto, Nellis, all of those have come into compliance or tried to come into compliance, all the ones you found out there?

Mr. Savage: We have some that have come in and received permits; and we have some that are still out there without permits. We have some that are working with the local jurisdictions that are building buildings, and others that are still fighting us. So we have a wide variety of issues and status...

Member Eliason: I have a hotbed for you out there.

Mr. Savage: Pardon?

Member Eliason: I remember that was a hotbed for you guys out there in that area.

Chair Giunchigliani: In fact we had a meeting yesterday with Commissioner Collins' district on Betty Lane and I think the gentleman is here, because we're trying to work out...it's a compost plant and I was saying that that would not work for the temporary but I think they wanted to try to do whatever they could to comply. So maybe when we have further public discussion we could take that into consideration because those that want to comply, yes; but those that, I know Commissioner Collins put a restriction on they have do this and they have eighteen months to do x,y and z and I think that they want to comply with that, but there are a bunch of others out there that don't. And they need to respect the other ones that are in business doing it right. What's the purpose of doing it right if you don't really get enforced with anything.

Mr. Savage: And what we've tried to do is try to separate out the complex facilities versus less, I mean there are a number of recycling facilities...the group this morning, it's in a building, they can go through and get the proper business licenses and use permits, and zoning and fire approvals...those are simple but sometimes working through that process might take a while. So those are the ones we thought we could work with, move things along. But if you're getting into more of a complex situation, a landfill, composting where they're adding things and trying to sort and separate, more complex issues, we have to do a further plan review. And frankly the jurisdictions are very interested in those facilities and making a decision about whether or not they belong in their jurisdiction or not. So...

Chair Giunchigliani: Right.

Mr. Savage: And Susan, I believe your comment about public providing information...We have Mr. Hawley here today. He might be willing to comment. He was one of the...he did give us a lot of comments that are noted in the packet today.

Chair Giunchigliani: Thank you. Any further questions for these two gentlemen? We may bring you back up, but let me go to the Public Hearing component now. Is there anyone who wishes to testify on the proposed regulations? Good morning.

Earl Hawley: You're well aware from the conversation that had just transpired this is a major problem.

Chair Giunchigliani: Could you please state your name for the record? Sorry.

Mr. Hawley: It's Earl Hawley from Nevada Construction Clean-Up. I'm an attorney. At the very first workshop, I suggested to staff that they should consult with us very early on, us being members working in the solid waste field. And as time was short then, and there's been a pretty good discourse between myself and staff, but the opportunities in conjunction with other business activities are such that we've not been able to give a lot of time to this problem. We do see major problems, and I've told staff about some of those problems. But as we've had the opportunity to think about what it is that they're proposing to do, we've come up with some more ideas, more in-depth. Now staff has indicated that they're looking a major re-write of the regulations and that this is a format, in part, to that re-write. The program essentially as it exists today is one that is functioned based upon the fines and hearing officer program. We would make a proposal for a totally different financial operation that would not base itself upon the fine program. And as an attorney, I question whether or not that's a viable constitutional concept. There are so many other problems that we have thought about that could cause problems and to some degree we have thought that in time, we could resolve all these problems. The staff, number one, is having troubles finding qualified people to go out there and control some of the problems we have in the waste field. People don't realize, the public in general, don't realize what is or isn't waste. And here's a major problem that the enforcement section has out there trying to just clean up a lot of the early problems that have developed when we didn't have an enforcement program. But they still exist. There has been a time when my client and myself have come to the solid waste department and said look, here's the number of illegal operating companies, one of which was quite large. It is just recently, in the last couple months, that since it has operated for a substantial period of time, a staff member of that company once said to me: well, hell the laws in Clark County don't mean anything. You can't have that. And I have suggested to staff that the six-month period is a problem as we see it because as we try to process through permits we're finding much longer periods of time involved than six months or even nine months here. And staff has got problems trying to cover the problem out there – it's much bigger than it might appear. And I feel sorry for them. And I would try to help them and I think that it can be done from the industry point of view. I would suggest that if you wanted to do a pilot program with this that that is all it is – that's it's a pilot program. But I don't think it's going to cover what it is you're looking for. Now I've detailed some things in writing and orally to staff and they have responded appropriately and I still think that when they see our side of the contract. In workshops...the workshops do not provide enough time. That's reaction. We don't get enough time to get perspective out to staff to let them see what the other side of the operation is to control the problems. We're interested in controlling it – we think it benefits the whole of society. But, as it exists now we don't think this program is going to work well. Thank you.

Chair Giunchigliani: And if I might, Mr. Hawley, we have a couple questions. Susan?

Mr. Hawley: Yes, ma'am.

Member Crowley: This is actually a question for staff. Once the workshops were done and we revised our language as we thought appropriate, how much time did the regulated community have to look at those revised regulations before they're sitting before us? I mean, have they been out there...

Mr. Hawley: We ran a period of about nine months in the workshop.

Mr. Campbell: As soon as we completed our last workshop, we immediately sat down and put all the comments together and responded to them, so it's at least three weeks prior to bringing them before the hearing. We did it right over Christmas vacation in that period of time and got them right out right after the first.

Member Crowley: I see that we responded to comments in that we explained to them what we intended to do, but the language that was changed, the language that would reflecting those responses that we made, how long has that language been out there so that the public can look at that and see whether or not it responded to their comments or if they continue to have concerns. That's why I'm asking.

Mr. Campbell: As soon as we got the comments we made changes, and what's in this draft is in response to the comments that we got. If we made language changes, and then we notified everyone that we did make those changes to them, whether or not they had actually seen the draft regulations, because we posted it on the Internet and said here's where it is and here's the changes that we made. So we did get it out to them as quickly as we possibly could so they could take a look at.

Member Crowley: And that's probably true, but how long have they had to look at it? Has it been that full three-week period?

Mr. Campbell: It's been that full three-week period.

Member Crowley: So they've been able to look at the revised language for the full three-weeks?

Mr. Campbell: Yes.

Chair Giunchigliani: Mr. Hawley, if I might? I think...Linda, do you have a question for him or for staff?

Member Strickland: It's actually probably more for staff.

Chair Giunchigliani: I do have one for Mr. Hawley, if I might. So your client, for example, came yesterday to the County and we dealt with a land-use issue. But they were a compost, if I recall.

Mr. Hawley: No...

Chair Giunchigliani: OK, that's...

Mr. Hawley: You're using yesterday's activity...

Chair Giunchigliani: Right...

Mr. Hawley: I'm Nevada...

Chair Giunchigliani: Oh, you're the other one...

Mr. Hawley: I'm Construction Clean-Up...

- Chair Giunchigliani: OK.
- Mr. Hawley: ...not Nevada Forest Product.
- Chair Giunchigliani: OK, thank you. Alright, so I get it. I guess I was thinking about that.
- Mr. Hawley: I might, I think my retainer for Nevada Forest Products would reach this far, if you want.
- Chair Giunchigliani: I think they were actually going to get with staff and Commissioner Collins' staff was going to work with Dennis or somebody about how they properly came into compliance as the compost so they can continue, but I don't know the status of that so you'll probably get a call from somebody in the next day. Thank you, that was my question, so I confused those two. Thank you.
- Member Jones: I just have one question.
- Chair Giunchigliani: Tim has a question.
- Member Jones: I guess I'm just not clearly understanding, what are maybe the one or two points that you, from the industry side, find that are lacking in this proposal?
- Mr. Hawley: Well, I indicated earlier I would have found the whole of the program on a totally different economic basis. And I think that it will make the solid waste section much, much stronger; it will provide them, I think, with more money, a consistent flow of money that they can rely upon, and I think that by supporting that aspect of the solid waste department it will clean up a lot of these standard little problems that we have out there. One of the, like I've indicated, the public doesn't really know and there needs to be more of an education program to let people know, hey, that tire is waste; that plastic bottle is waste – you just can't leave it lying around.
- Member Jones: That funding would come through permit fees rather than fines, would be your?
- Mr. Hawley: In part, yes.
- Member Jones: And who would pay those permit fees?
- Mr. Hawley: The people who are asking for the opportunity to enter into the business.
- Member Jones: And so it sounds almost like...
- Mr. Hawley: And it would have an annual increase in monies, or the operators could...you'll have an annual flow from the operators.
- Member Jones: The clean operators would be paying the fees and the dirty operators would not be paying fines in that kind of a...
- Mr. Hawley: No, it is not, when it's worked out, and I won't take the time here, but when it's worked out it doesn't really run that way. The little guy with one truck who'll be able to do what he wants to do. This fellow out there with the big fleet of trucks, they'll be able to function also. But we got to get the clean-it-up aspect across to the public much better in order to start getting the

accumulation of the waste materials that are out there and going into recycling.

Chair Giunchigliani: Linda?

Member Strickland: Yes, actually this is a question for Mr. Hawley. You previously made reference to an issue that the language in the proposed document may be unconstitutional. I think you made some reference to the language. My question is, is your disagreement with the language a personal preference or is it truly a concern that it may be unconstitutional or in some way a violation of law or public policy? That's the first question. I'm going to compound my question to you with the second part. If you truly feel it's unconstitutional have you had some discussion with our Board Legal Counsel relative to the possible rewording of the language?

Mr. Hawley: It isn't so much a rewording of the language, if I can take your second question first. It's more, my position is more one of scope and as they are endeavoring to do what they're doing, they're picking out language from other activities that the solid waste department participates in, to some degree. And in my opinion, that language does not fit well, particularly where we lack, it doesn't fit well, as far as I'm concerned, in so far as being able to see the whole picture that they're trying to achieve because they've not said what the major rewrite is to it. And that's really not our business, unless they choose to disclose it. Internally, they need all the help they can get because it's a major problem. If you look at that list of fines, it comes down before the hearing officer every hearing officer session. It's very, very large. And they're missing a lot of people. They've got a major problem and they need help. I think it needs to be re-scoped. And your question on the legal end of it, unfortunately, I've litigated with the department a couple of times and we've got a piece of litigation right now that's in the wind up stage. I made my remarks expressing my legal opinion – I do believe that it's a major legal situation when somebody's prepared to take it on. I have even recently had a situation where I interviewed people and filed Amicus curiae motion through court in somebody else's place because I believed there was a major, major legal problem and it's manifesting itself, to some degree, in this particular case that's on appeal with the District Court. And it's not just a personal thing – I'm expressing a legal opinion when I tell you I think there's a major constitutional problem here.

Chair Giunchigliani: Bob?

Member Eliason: Maybe it's for Glenn or something, but a thought came to my mind as I sit here. You know these landscaping sale places that sell the mulch, they have the sprinkler sitting up on top of the mulch piles leeching back into the ground? Are we talking about the same thing, trying to get these back into compliance, will this ever fall under somewhere where they have to...it's a recycling center but yet the mulches and stuff, the contamination going back into the ground water, is that an issue or is that a whole new problem or a whole new thought?

Mr. Campbell: Are you referring to a composting plant?

Member Eliason: Well, it's already composted. The reason, the one that we caught that we have issues about where they have the water sitting on top, the sprinkler

sitting on top the composting pile and leeching back into the ground water up there...

Chair Giunchigliani: Then it's not done being composted if they're still watering it.

Mr. Campbell: If they're still watering it, they're still processing so it would come under the heading of a composting plant, which they would need to be permitted through the Solid Waste Management Authority as a composting plant.

Chair Giunchigliani: And is that where the pad then comes in as a requirement?

Mr. Campbell: Right.

Mr. Savage: Just a general comment would be any materials that might have received any type of herbicides or anything like that that are trying to be composted, again if you're adding water or liquid to that and you get a runoff or potentially if the soils are not compacted, which would prevent any leeching going into the soils that would impact the groundwater, that would of course be a concern of ours, and so in our plan review processes we would like to know how that facility would be operated, how they are going to compost, how and what they will add whether it's just water. We've had other people consider putting other industrial waste waters to be added to help with the degradation process, again it's a case-by-case basis. Are we concerned? Sure, we would be concerned with that being a possible issue.

Chair Giunchigliani: And I think the issue, what do we do to catch the bad apples that are just doing it, I mean I reported last year and gave you pictures and you guys got out to that. But it was a huge construction operation that was taking off one of our big gaming properties and just dumping it illegally out in the desert and that's just mind-boggling to me and if we don't have proper procedures in place to cease & desist them in a very quick manner, then what do we say to those businesses, mostly the smaller ones, that are playing by the rules? And there's a whole other game that's out there that we have to be careful of is under the green building tax abatement they actually have to have a licensed recycler that's transporting their construction materials – if they don't they cannot qualify. Well, one of these companies that I turned in was not using a licensed permitted recycler. So my opinion they should not be able to qualify for that statute. So there's other factors that come into play. Then we have other ones taking it to Lincoln County and just circumventing the process. I don't know if this reg gets us to that yet. I understand, if I recall, part of this came about because of the two hearings, correct, we had with some companies and this was a potential resolution, or am I mixing those up?

Mr. Savage: It was part of that and also some examples of recycling centers that might of received a business license as a transporter...

Chair Giunchigliani: Mm-hmm.

Mr. Savage: ...and received zoning approval and they didn't really...

Chair Giunchigliani: They're not ...

Mr. Savage: ...and in those situations, and so we're trying to be business friendly but we're protecting public health. So we thought about a way a businessperson

who's trying to be legitimate and somehow just got classified maybe in a different manner, and now we're trying to work with them and with the zoning and land-use people, and the business permitting folks in the jurisdictions to get those people by. They've got a building, they've got a concrete pad, they've got an operation that seems to work, somehow they just got a wrongful classification and...

Chair Giunchigliani: And do you need better authority then, for those lists that you discover that, you know, one of the local governments turns in and says, hey Glenn, you know we've got these five illegally, we didn't give them zoning, we don't want them here, etc. to get those to stop. I mean, is it too drawn out a process? Is there something else we ought to be looking at as well, because if you notify them, you give them the opportunity to come in and they still don't play? Then they should be...

Mr. Savage: We agree. Staff this past year did approximately close to 2,000 complaints – that's up from the previous year. And there are a lot of illegal disposals and also it's businesses who are also doing things without getting the necessary permit. So...

Chair Giunchigliani: They come in a narrow one and go beyond that. OK.

Mr. Savage: ...so staff does issue normally a cease & desist order; if they would participate with us and try to get permits and work with the local jurisdictions, we will work with them. If they chose not to, then we seek counsel and go before our hearing officer, plead our case and see what the hearing officer does rule.

Member Eliason: I've got one question on your fees, Glenn. If they come into compliance, are we waiving, is there a minimum fine, no matter what? I guess, because some of our code enforcement side in my City, even though the code enforcement officer still signs off on it, they still have to pay a minimum fine. Are we doing that also, even if they come into compliance? Is there still a minimum fine that we are charging those guys?

Mr. Savage: We kind of keep that in a negotiation phase with the attorney and staff.

Member Eliason: OK.

Mr. Savage: We get them to pay...if they're coming in with use permits, and we've seen that from the jurisdictions, and they're bringing in a permit, they're cleaning out the facility, you know we see that kind of compliance and are willing to work with us, sure that can go a long way in how we negotiate out a settlement. But if we do catch them illegally operating, without permits, we're going to seek some sort of monetary penalty. Just as what we found this past week with...a call comes in, someone is recycling basically out of their house, and they're bringing in a Ryder truck and here comes "recyclables" with the neighbors. Mr. Erskine actually went out there and busted them, if you will – they had no business license, they had no permits from us. Now will that case be written and presented to our counsel? Absolutely. Will hearing officer Schmidt or Melton hear the case? Yes. We'll see what happens, but this group apparently had no respect for the jurisdictional laws and the solid waste laws.

Chair Giunchigliani: And I want to thank you for that, and Councilman Barlow will as well, for the work that you did with code enforcement.

Mr. Savage: We were working with code enforcement, also, in that investigation.

Chair Giunchigliani: We have a couple more questions. Steve Kirk has a couple, then Bubba.

Member Kirk: A couple of comments. First of all, I think that it's important that we note that I look at these regulations like I look at all of our regulations and that is a work in progress. I mean, how many times do we adopt something and then discover, thinking we've got all the answers, and then later discover there's a case in which our regulations don't handle it correctly. And so I have no problem whatsoever adopting these regulations with the understanding that they're a work in progress and we may be back, Dennis I'm sure you're going to come back, and Glenn you guys are going to find instances out there that aren't covered in these regulations because I can find any lawyer anywhere who can lawyer up this whole thing and ask them, just as I see this memo written by Mr. Hawley, there's questions on every single paragraph almost. He's questioning my trash can at my house whether that's a solid waste bin. Now I'm not going to litigate that – I don't really care. And so, I mean I want to move forward on this because I want to get things moving and show progress. I don't want to lawyer this up and wait another three, or four or five months or two years while we have every lawyer around town weigh in on what is our intent. If there's some legal issues, let them litigate them. If there's some major constitutional problems, let them litigate them. But we need to show action. We need to take action on this kind of stuff. I think our intent is to get the bad operators out of business, make them pay fines, let the good operators pay their fees and do business as we all know that we intend to do it. And so I don't want to lawyer this up and take any more time. I mean, I'm comfortable with the way they are right now, knowing that you and others will probably come back and want to make some significant changes with this later. But I don't want to get stuck in this, your definitions of waste bins at my house, whether that constitutes solid waste. I don't want to deal with that. I think it's ridiculous. It's a litigious society and that's the kind of thing that we're faced with and that's not what we want to do. So I want to move forward on this right now.

Mr. Savage: One comment, too, we did hear from the Board a few months ago about trying to come up with a process that will work and move businesses along in tough economic times. This is our attempt with the good solid waste folks out there trying to work with us. You'll probably hear again today from another group concerning plan review and our pool program and how we're going to be working with them to try and speed that process along with working with contractors and pool maintenance people. So we, in environmental health, are trying to do things to be faster in our plan reviews and still grab that public health and safety flag and wrap ourselves around it and try to be also cognizant of business needs out in the community.

Chair Giunchigliani: Thank you. Bubba, you had a question.

Member Smith: Thank you, Madam Chair. Board member Kirk addressed a lot of those and so has Glenn, a lot of the comments I had and I appreciate that. If we're going to decide, again, I think of our charge to protect the public safety and health. And we're talking about businesses that are operating, they're in violation – they're operating without business licenses and without permits.

Our leniency cannot even extend so far and I appreciate Board member Kirk and Crowley's and that six-month extension, I think that would be fair. And when we're talking about the types of businesses that are operating without permits, without business licenses and so I think we're being very lenient but we're being very proactive at the same time saying we want you to stay in business, we know this is important to our society as a whole, and so we're giving you this opportunity. We're going to give you six months and a potential six-month extension to get it right and get the permits, to make sure you have the licenses and so I agree we need to move forward. We need to either find those that are willing to work with us and those who are going to do it without permit and license and be able to eliminate those types of individuals. So I think it's very fair and I almost thought we were too lenient as I read through it the first time and in this discussion I think we're being very proactive and need to move forward.

Chair Giunchigliani: Thank you. I kind of see it almost as allowing some businesses to self-report, oops we didn't do it, we're going to play by the rules and give them an opportunity to come in to play. And if they don't, those are the ones we need to go after as far as that's concerned. And I appreciate what Susan's saying. I think it is a guiding document, it's fluid still at this point, so may be part of, if we do adopt it, is that maybe in six months we get a report back on how is it being implemented, are there issues that we still need to take a look at. And maybe one thing that might help for future regulations is once public comment and you make changes that have been suggested, maybe if there's a different way to underline it or highlight it so we know. Because I think you did incorporate, but it was hard to go back and forth and that might be something that just might help us see where you did respond and react to the public concerns that were brought up. And that said...Susan you have a...

Member Crowley: I do have to compliment you, though. You did provide us a document that went a long way towards helping us understand how we responded as a regulatory group to the comments that were offered. But I think you're right, it would have been helpful if in the regulations we could have seen where the language changes occurred. I think it would have been helpful for the regulated community, too.

Mr. Campbell: And we can always incorporate that, because we will be making more changes to our other regulations, and they are fluid documents.

Member Crowley: I do want to compliment for that document you provided for you.

Mr. Campbell: Thank you.

Member Crowley: Very helpful.

Member Strickland: I just have one question and I haven't heard it answered yet, and that may be something that everybody's assumed and it may be it's already happened, but I'm assuming that this document was reviewed by our legal counsel with respect to the concerns that were concerns that were addressed on the language.

Stephen F. Smith: Yes.

Member Strickland: OK.

Chair Giunchigliani: And any of the court cases that are in litigation as to what those cases are, I'm assuming. Yes, David?

Member Steinman: I'm trying to consume all this for the first time. And I'm hearing let's fine people and put them out of business. Can I ask you what the authority you have to collect those fines once they are assessed? Is there a lien? What's the process for all your fines and getting that money?

Mr. Campbell: Through the NRS we do have the ability to, through the Solid Waste Management Authority, there is the ability to assess penalty dollars. We don't have the authority to issue liens on anything. We assess a penalty and they fail to pay then we can bring them back before the hearing officer as a failure to comply with a hearing officer order through the hearing officer process. And we do also have an ability to go to a collection agency to ask them to have them collect these penalties through the collection agency.

Member Steinman: So if they have no intent to comply, ultimately we may not see those fines.

Mr. Erskine: We also, in the cases where there are assets, and/or there egregious violators, we ask our attorney to take the case to District Court and get a District Court ruling and I know one case that went to the point where the judge was threatening the individual with jail time if they didn't comply.

Chair Giunchigliani: Good question. Thank you. OK, is there a suggestion for a motion? Susan?

Member Crowley: There may be others from the public...

Chair Giunchigliani: Oh, I apologize. Is there anyone else who wishes to testify from the general public? Seeing none, we will close the public hearing. OK, Susan?

Member Crowley: And I was really waiting to see whether or not there was anybody else in the audience that wanted to speak. Knowing that the only public comment we really got was that the whole structure needs to be re-thought, re-scoped, and that's a much bigger effort that we can try to accomplish today or even in the next couple of weeks. I would move that we would accept the language as it sits, as it's been provided to us, with the exception that we extend the extension from three months to six months to give our staff the possibility to do that.

Mr. Campbell: We can do that.

Chair Giunchigliani: Is there a second?

Member Kirk: Second.

Chair Giunchigliani: OK. Moved and seconded that we would adopt the regulations as proposed with the change from a three-month extension to a six-month extension. All those in favor say "aye."

Board members: Aye.

Chair Giunchigliani: Those opposed? Motion carries. Thank you very much. We appreciate your work.

*A motion was made by Member Crowley to adopt the proposed regulations as submitted with the change of a three-month extension to a six-month extension; seconded by Member Kirk and was unanimously approved.*

### **III. REPORT / DISCUSSION / ACTION**

**Due to potentially losing a quorum, Chair Giunchigliani took the agenda items out of order.**

**5. Petition #01-09: Approval of Collective Bargaining Agreement with Service Employees International Union (SEIU)**

Scott Weiss, director of administration and Shaun Haley, chief negotiator, presented this item. A successful mediation was held and both parties worked together collaboratively to agree upon an appropriate and fiscally responsible contract. Mr. Haley noted that he was pleased to announce that a tentative agreement was reached. He thanked both committees for the cordial and cooperative negotiations. He recognized the entire SEIU team and the district team consisting of Dr. Middaugh, Bonnie Sorenson, Glenn Savage, Scott Weiss and Angus MacEachern. Significant hours were devoted to negotiations, including a thirteen-hour mediation session. The agreement was ratified by the bargaining unit members and recommends approval. District management also recommends approval.

Chair Giunchigliani noted that language concerning call-back was agreed upon. An article was added to the agreement to address the Family & Medical Leave Act (FMLA) which reflects statutory and regulatory language. Given difficult economic times, there is an understanding that a one-step increase will be in effect for the second and third years of the contract. A compromise was reached concerning step increases and at threshold was added that if revenue increases in FY11, step increases will revert back to a two-step increase. A benchmark must be reached with regard to property taxes and fees for services in order for the two-step increases to be put back in effect.

Chair Giunchigliani applauded both sides for their collaboration.

*A motion was made by Member Jones to approve the collective bargaining agreement with SEIU as submitted; seconded by Member Crowley and carried with Member Strickland voting nay.*

Dr. Sands also noted his appreciation to both teams for the phenomenal job over the several months to reach a resolution which works for both parties.

**1.5 Petition #02-09: Approval of Revision of SNHD Personnel Code in Accordance with the New Union Contract – **deferred from Consent Agenda****

With the ratification and subsequent approval of the collective bargaining agreement it is necessary to update the Personnel Code to reflect any new language. Throughout the document Clark County Health District was changed to Southern Nevada Health District. Mr. Weiss noted that the Personnel Code applies to all employees, not just those affected by the collective bargaining agreement.

*A motion was made by Member Smith to approve the revisions to the SNHD Personnel Code in accordance with the new union contract; seconded by Member Kirk and was unanimously approved.*

**6. Petition #11-09: Approval of Clark County Self Funded (CCSF) Plan Insurance Buy-in**

Mr. Weiss, and Kieawa Mason, acting financial manager addressed this item. In the course of negotiations, both parties agreed to entering into the Clark County Self-Funded Insurance Plan (CCSF), though acceptance is still pending. Clark County asked that a reserve fund be established at a rate at \$5,000 per employee participating in the PPO plan. As of December 31, 2008 there were 311 employees participating in this plan; at the end of June and closure of the open enrollment

period a definite number of participants will be available. To start the reserve \$1.5 million is required for the 311 employees currently participating – this amount will be taken from the general reserve as it is a non-budgeted item. Mr. Weiss will come back to the Board with the actual figures upon closure of open enrollment.

Chair Giunchigliani, for the benefit of Member Steinman, indicated that a committee was established to review health insurance plans as the district will be vacating PEBP as of July 1<sup>st</sup>. The recommendation from the committee was to enter into the CCSF. After meeting with the County Comptroller, this pre-funded amount covers a “tail” for claims for any employees coming into the PPO plan.

*A motion was made by Member Christensen to approve transfer of \$1.5 million from the general reserve fund to the CCSF insurance buy-in reserve for employees participating in the PPO plan; seconded by Member Strickland and was unanimously approved.*

**7. Petition #12-09:** Approval of FY09 Budget Adjustment to Add Cost of Living Adjustment (COLA)

As the FY09 budget did not have a line item for any potential cost of living adjustment (COLA), it is necessary to adjust the approved budget by \$1,551,451, which is the estimated amount resulting from the 3% COLA increase. The monies are available in the current budget.

Member Jones verified that employees will continue to receive a two-step increase for the current fiscal year. Mr. Weiss replied that the two-step increase was budgeted during the last budget preparations – it was only a potential COLA which was not budgeted.

*A motion was made by Member Mattocks to adjust the FY09 budget by \$1,551,451 to account for the 3% COLA increase; seconded by Member Strickland and was unanimously approved.*

**1. Petition #05-09:** Approval of Vaccine Pricing for Non-Qualifying Vaccines for Children (VFC) Patients

Effective January 1, 2009 Nevada became a Vaccines for Children (VFC) only state and vaccines which were formerly part of the Universal-select program had no pricing, as they were provided free of charge. It is now necessary to establish pricing for these three vaccines, including Kinrix, Pentacel and Rotarix. Mr. Weiss noted that the fees are posted on our website and are made available at each immunization clinic location.

*A motion was made by Member Strickland to approve the vaccine pricing for non-qualifying VFC patients as presented; seconded by Member Smith and was unanimously approved.*

**2. Petition #07-09:** Revocation of Southern Nevada District Board of Health Permit to Operate a Solid Waste Management System, Permit Number MRF 13-XXX-01, in the Case of ABC Recycling, 2630 Betty Lane, Las Vegas, NV 89156

Dennis Campbell, solid waste compliance manager addressed this item. ABC Recycling received a permit from the Board of Health March 27, 2008, which was officially granted on June 9, 2008. On August 13, 2008 this facility was raided by the Las Vegas Metropolitan Police Department in response to receipt of stolen goods, including copper and vehicles. Subsequently the facility was closed and has not reopened. Additionally the owners have failed to purchase the property that the business was located on and the site reverted back to the original property owner. Staff is working with the original owner to clean up the site. As the Board of Health granted the permit, it is necessary to seek revocation from the issuing authority.

Member Jones asked who is responsible for cleaning of the facility. Mr. Campbell said that staff is working with the owner as all assets have been transferred to the original property owner. ABC Recycling has transferred their financial assurance to the original owner.

*A motion was made by Member Strickland to revoke Permit Number MRF 13-XXX-01, in the case of ABC Recycling; seconded by Member Crowley and was unanimously approved.*

**3. Petition #10-09: Approval of Bond Reserve Fund Catch-up Transfer**

Upon passage of AB380 in 2005, a dedicated funding stream was enacted for the Southern Nevada Health District from Clark County property tax revenues. It was agreed that ¼ cent of the 3½ cents per \$100 of assessed value be dedicated for facility replacement. Mr. Weiss calculated the amount necessary to build a bond reserve fund going back to FY06 and is requesting that funds be transferred from the general reserve fund to the bond reserve fund, in the amount of \$4,822,857. The amount will be amended at the close of the fiscal year.

Chair Giunchigliani asked if the adjustment would be based on results of possible legislative action concerning property taxes. Mr. Weiss said that the funding stream from county property tax revenue is currently in statute.

*A motion was made by Member Kirk to approve the transfer of \$4,822,857 from the general reserve fund to the bond reserve fund; seconded by Member Mattocks and was unanimously approved.*

**4. Petition #38-08: Approval of New Classification Specification and Position for Labor Relations Specialist, Recommended Schedule 27 (\$68,661 - \$95,834)**

As part of the continued evaluation of the Employee Satisfaction Survey conducted in November 2007 as well as the desire to improve employee relations it is necessary to create a position of Labor Relations Specialist, which will report to the Director of Administration. The individual hired for this position will focus on ensuring compliance with the collective bargaining agreement, legal employment matters, personnel codes and the like.

Chair Giunchigliani said the Board has not dealt with the Employee Satisfaction Survey and suggested that the position be held in abeyance until the Board has discussion on this Survey. She asked for a report at the next Board meeting. Further she noted that Ray Visconti had been contracted to review human resources procedures and his findings had not been brought to the Board.

*A motion was made by Member Crowley to continue this item to the February 26, 2009 meeting and agenda discussion of the Employee Satisfaction Survey and the recommendations coming from the human resources audit; seconded by Member Smith and was unanimously approved.*

**8. Receive Report on Methods of Payment Accepted for SNHD Services; Direction to Staff**

As a result of discussion at the November 2008 Board meeting, Mr. Weiss reviewed the methods of payment accepts for SNHD services. As of January 5, 2009 debit cards are accepted. Member Barlow had suggested implementing an automatic check verification process. This analysis was completed in the past and was noted that there was a large expense involved. The analysis is being conducted again with Bank of America and other vendors to see if the costs have changed. In addition to a flat fee there was also a per check fee, which resulted in a higher expense than the losses we experienced.

Chair Giunchigliani thanked staff for following up on this issue. She noted that due to the changing economic situation, banks may be more willing to lower some of their fees.

**9. Receive Report from the Replacement Facility Committee; Direction to Staff**

Scott Weiss, director of administration and committee chair, spoke relative to this item. In September 2008 the Board approved creation of a committee to consider the facility replacement needs in conjunction with the short-term building repairs to the existing facility. The committee has met several times with representatives from the City of Las Vegas, Clark County, the Board and staff. County finance staff and PGAL, the architects of the replacement facility, have also joined the meetings.

Member Jones commented that the committee is looking at the overall building replacement structure and the benefit of ending leases. Though there is a need for satellite operations through the county, the new facility would allow for some operations to be moved back to the main building and thereby create a cost-savings on leases. The first lease to end would be at 400 Shadow Lane which is approximately \$500,000 annually. Due to space limitations on the main campus some nursing and environmental health programs are run from that office, as well as epidemiology and chronic disease prevention and health promotion. Estimates for the replacement facility are approximately \$74 million, and staff is ready to ask for engineering and permitting plans. Ed Finger, Clark County comptroller, has provided three financing scenarios: the first being property tax revenue remaining equal to today's revenue; the second shows an increase in property tax revenue, which is the expectation at present; the third option would be a decrease in revenue. In all three scenarios, the current process of putting ¼ cent into the bond reserve would pay for the project over a thirty-year period. In the first year, the county would support 40% of funding, but over the thirty-year period the bond reserve would pay for the building, including interest. There is approximately \$7 million in the bond reserve fund. Any stimulus funds allocated to southern Nevada could be another potential funding source; a second option is to ask the county for bonding to begin the building process immediately; a third option would be to wait until the legislative session concludes as the allocation of property tax revenue could change; fourth, we could look at other community projects and partner with them for shared space – this would require a refresh to the existing architectural plans.

Mr. Weiss stated that the existing Southern Nevada Public Health Laboratory needs to be relocated due to Project NEON and the rerouting of MLK Boulevard and I-15 off-ramps. PGAL has configured the renderings to include a new BSL-3 laboratory, which would also increase the size of the lab. With the lease issues discussed, as well as the increasing expense to maintain the existing main facility, including bringing the building to code, it is in the best interest to move forward with the replacement project. All parties are in agreement that a new building is needed due to the growth of the community as well as the age of the existing building. Mr. Finger believes financing is available even in these difficult economic times. Potential stimulus funding would strengthen the job market by providing job opportunities. In order to be "shovel ready" for any stimulus funding, we will need to take the conceptual plans to a permitted perspective, which is an expenditure of \$3.5 million. If stimulus funds become available, we could put the project in line by having the plans in place.

Chair Giunchigliani said she believed the replacement facility was included on the stimulus package list sent by Real Property Management; if not she believed the project could be added. She suggested that the renderings be updated to include any changes which may have occurred. She further suggested that this issue be agendaized for discussion at a Commission meeting. She offered relocating the laboratory to the proposed Metroplex facility. She said in discussions with legislators they've recognized the need for a new building but would like to see capitalizing on co-location programs for public health services and anticipate the need for a different direction. She said that any decisions should be deferred until the legislative session concludes. Keep the project "shovel ready," polished, and continue to review and revise the plans, as well as agendaizing discussion by the Commission. She offered bringing the item back for discussion at the conclusion of the legislative session.

Member Smith agreed with postponing plans until the session is complete. He asked for plans regarding the existing main facility and the 400 Shadow Lane building once the replacement facility

is underway. Mr. Weiss indicated the lease at the 400 Shadow Lane building would cease and staff would be relocated back to the main facility. The new building would be built on the existing site, while maintaining operations during construction. The new building would be on the back of the property and parking would be in front of the structure. Some services would be relocated during construction. Mr. Weiss reiterated that in order to be “shovel ready” the conceptual plans must be converted the permitting plans, a process which can take nine to twelve months. By waiting until the session concludes the permitting plans would not be complete until August 2010. By expending the \$3.5 million dollars, we are closer to being “shovel ready” with building plans.

Member Smith asked what would happen to the existing laboratory building once the lab is relocated. Mr. Weiss indicated that Clark County would like to use the building for storage in exchange for some funding.

Member Crowley said that the plans are not “shovel ready” at present – the plans must convert from architectural drawings to engineering plans for actual permits. The \$3.5 million must be spent in order to become “shovel ready.”

Chair Giunchigliani said that the plans need to be updated to ensure that outreach projects are included, as this will be discussed in the session. She expressed her concern about speaking for the Commission. She said to have the Commission discuss the project and funding opportunities, then come back to this Board with an agenda item with updated plans and additional co-location and outreach programs included in the building.

Member Crowley said the satellite facilities will continue to exist and the outreach to the community will continue. The leases for overflow properties will end.

Dr. Sands said we are looking at ways to consolidate some satellite facilities for better opportunities for services, as well as establishing new partnerships with programs serving similar clients. This will continue even if we do not move forward with a new building.

Member Jones stressed that the funding is there to take the next step and progress to securing engineering plans and add in other community partnerships. He said there is no need for county approval for funding as the project is self-sufficient.

Chair Giunchigliani agreed the money is there, but cautioned against anticipating obligation.

Dr. Sands said we do not want to take any steps prematurely as we want to ensure that all pieces are in place.

Chair Giunchigliani said we need to ensure that the building is included in the stimulus piece, maintain the bond reserve fund, update the building plans, create an agenda item for the February meeting to discuss moving forward with obtaining engineering plans, and work with county management for an agenda item for the March Commission meeting for discussion. She also said that providing a list of where the satellite offices are located with available services would be beneficial.

#### **10. Receive Report on Legislative Planning for 2009; Direction to Staff**

Jennifer Sizemore, public information manager, and SNHD lobbyists Bryan Gresh and Gary Milliken spoke relative to this item.

Ms. Sizemore noted that the current information being discussed is in the Board books and the original BDR list is included with the meeting minutes from November. She asked if there are any changes to the priorities as set forth by staff for the upcoming legislative session.

Chair Giunchigliani noted that Senator Carlton and an interim committee had something on the agenda relative to massage therapists. The revised business licensing requirements will be on the Commission agenda in February and the cities will need to follow suit. Changes ensure no interference between licensing requirements and the massage therapy board requirements. Some items previously sponsored by Senator Heck have not been picked up by other legislators; the bill concerning the lab has been picked up by Assemblyman Hardy. BDR 53, requested by Assemblyman Ocegüera concerning scrap metals, has Metro's involvement and will ultimately assist environmental health staff in dealing with stolen copper.

Member Crowley if asked BDR 45-10 clarified language with smoking in eating establishments. Ms. Sizemore said there is no additional information on this item at this time. Some of the items listed were submitted several months ago; as the session picks up some BDRs may drop from the tracking list as language is developed and the intended action may not impact the district. Ms. Sizemore noted that any bills are hyperlinked on the electronic version.

Member Crowley asked that the list be updated and sent to the Board on a regular basis. Ms. Sizemore said this will be done weekly.

Chair Giunchigliani noted that several items are resultant of the hepatitis C investigation. She asked if there are items that may have additional fiscal impact on the district. Mr. Gresh said everyone is concerned about fiscal impact and he and Mr. Milliken are keeping a close watch on all activity. In 2005 they fought diligently for the dedicated funding stream and he noted that what can be done can be undone.

Chair Giunchigliani said there are some who think that it's time to re-think how the district functions and the mechanism for doing that part of it. Mr. Milliken said the session will include discussion on allocation of property tax dollars.

Chair Giunchigliani asked if there are things the district could capitalize on, meaning the district should take the lead in certain areas versus the state, including becoming direct funded from CDC. She asked if staff could identify areas that local government could do better and streamline funding directly to the local governments. By identifying efficiencies and demonstrating good public service, including co-location of services could be beneficial in this endeavor. She said she is looking at a San Diego model for the county, and public health overall, on how public services are delivered. Washoe and Clark counties could manage more responsibilities if funding were available, as well as providing services more timely and effectively, and the state could focus on the rural areas.

Member Jones asked if BDR 59 addressed this issue. Ms. Sizemore noted no language is available at present.

Dr. Sands said that staff is researching grant opportunities coming to the state. Staff learned that the state must give permission or direction to CDC in order to allow direct funding to SNHD. An example of this is the childhood lead poisoning prevention grant, where the state designated the health district as its bona fide agent. Staff will have discussions with the state concerning this matter. Our goal is not to compete against the state for grant opportunities, but enhance available funding and services.

Chair Giunchigliani asked if there are services the state currently provides and should not be doing. She referred to a 1997 report which delineated roles and responsibilities that should be done by local governments versus the state. The court system should be at the state level; health care delivery should be managed locally. The revenue stream must follow accordingly. This would allow locals to capitalize on programs and funding more effectively. The state could continue provide licensure and certification of certain programs as well as enforcement, and local government could provide delivery.

Mr. Milliken sought to clarify that the revenue stream would come directly to the district. Chair Giunchigliani agreed with this statement. She expressed concern that some services are required to be delivered and there has not been an increase in funding since 1997.

Ms. Sizemore said that environmental health worked with Assemblyman Hardy to prepare bill draft language; however he wanted the Board to be aware of the item before he moves forward. Staff would like to develop a mechanism similar to the hearing officer process to address when environmental health staff are part of operations involving rental properties. The health district does not regulate rental properties; however when certain properties are not in compliance with providing safe and sanitary conditions for tenants, the health district would be able to take action. Chair Giunchigliani asked if this would encompass homeowner associations and problems resulting from foreclosures. Ms. Sizemore said that staff is in the preliminary stages of looking at language specific to West Nile Virus and foreclosures that are not being properly maintained.

Mr. Savage said this is being referred to as a "slum landlord" regulation. Some properties are not well-maintained, lack heating and air conditioning, water is not always available, and rodents and vermin are present. Currently staff relies on the public nuisance law to do investigations often times with various city and county jurisdictions. The property owners are instructed to make necessary corrections. The language is very simple, and respectful of the tenant/landlord law currently in existence.

Chair Giunchigliani agreed that people should not have to live in unsanitary conditions. Mr. Savage said the intent is to focus solely on those property owners who are not providing appropriate living conditions for tenants.

Member Kirk asked for the mechanism of reporting to the Board during the session. Ms. Sizemore suggested reporting at the Board meetings. Member Kirk said that the session moves quickly and asked if a weekly conference call could be implemented for an update on the status of bills and any required action. Ms. Sizemore said we need to be mindful of Open Meeting Law, but she will work with Mr. Gresh and Mr. Milliken to set up a weekly call. She will continue to provide the weekly email updates.

Chair Giunchigliani suggested that once bill language is developed, the updates could be scheduled around the committee meetings; also when there are positions the Board must take there should be a more formal process in place.

Mr. Milliken suggested meeting at 11:00am as both houses are in floor sessions voting on items with little discussion occurring with the public. Ms. Sizemore said that we can also look at setting up a conference line call for those who are interested in participating.

## **V. 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.

Ron Hair, representing Adams Pool Solutions addressed the Board. He thanked the Board for their hard work. He expressed concern regarding the Virginia Graeme Baker Act – all commercial pools are affected by this law and expenses to come into compliance can range from a few hundred dollars to several thousand dollars. He is concerned that the switch to digital TV and the need for a convertor box has been conveyed to everyone across the country and the Virginia Graeme Baker Act has not received the same attention. Mr. Hair expressed his gratitude to the pool/plan review staff and their efforts, specifically Angela Jones, Lorraine Forston, Valerie Hirata, Whitnie Taylor and Joy Clark for their tireless efforts. He has spoken with Mr. Savage about his concerns and thanked him for the time he spent in

discussion. He is concerned about the amount of work facing pool operators and SNHD staff because of this federal law; he said that thousands of pools will be closed when the swim season begins. He asked that the plan review process be consolidated so projects can move forward and that fees be reduced. He asked that Mr. Savage be given the ability to get all projects completed.

Penny Shaver, representing the Pool Safety Consortium, addressed the Board. She is concerned that many businesses are unaware of the Virginia Graeme Baker Act. She commended SNHD inspectors for seeking training and attending pool shows, as well as their efforts in trying to enforce the law. She said that the provisions of the Act need to be adopted into regulations for enforcement purposes. She suggested that guidelines be enacted and training be offered for both staff and the community to understand this law.

Chair Giunchigliani asked if anyone else wished to address the Board. Seeing no one, Chair Giunchigliani closed the Public Comment portion of the meeting.

Chair Giunchigliani asked Mr. Savage to come forward and address guidelines for the Act which were shared with the Board (**attachment #1**). She said this is a well-intended law that was enacted with no funding and the Consumer Product Safety Commission (CPSC) was given authority over the law, with no ability for enforcement.

Mr. Savage reported that guidelines were developed in how plan reviews could be conducted more quickly and efficiently. Staff is suggesting setting up a certification process that will allow businesses to make a commitment to do certain things to the pools which staff can then approve and allow the work to proceed. A final inspection would be conducted before the pools are released for public use. Staff is working with Mr. Smith on this process to ensure we are working within the boundaries of the law.

Staff is currently impacted by the number of plan review projects coming in. Travel is suspended and employees from other areas are being assigned to pool plan review to provide assistance. Overtime is being authorized as necessary for staff to expedite the plan reviews.

Chair Giunchigliani asked if there are other employees that could be reassigned to assist in this area, as the downturn in the economy has resulted in fewer building projects. Mr. Savage confirmed that EH employees are reassigned as workload allows. Chair Giunchigliani suggested that employees from outside environmental health be reassigned as necessary. Mr. Savage is concerned the volume of work will continue to escalate. The district does not have enforcement authority; however if an applicant is seeking to remodel a pool to meet the specifications required by the Act, staff is obligated to respond accordingly and this necessitates a pool plan review.

Chair Giunchigliani asked Mr. Smith about the conflict in enforcing the federal law. Mr. Smith replied that only the federal government can enforce the law; the health district has not been empowered to enforce a federal law. There is a consensus among the legal counsels of the local health authorities that we have no jurisdiction to enforce the law. She asked if there is something in NAC/NRS that could be changed legislatively to assist with enforcement. Mr. Smith replied this is a work in progress that is problematic. He feels that a statute would be the best option versus creating regulations; this is also problematic because a statute would be our interpretation of a federal law. A parallel provision could be created, which also creates problems.

Member Jones said the Act contains language specifying the state legislators are to inform the public. Chair Giunchigliani asked that this issue be added to the legislative monitoring list. She asked if all new resident and commercial pools are required to be in compliance. Angela Jones, environmental health supervisor, said that the health district works with commercial and public pools, and each individual pool is affected by this Act. All existing commercial, public, multi-use and recreational pool is affected. Residential pools are also affected; however the health district does not inspect residential pools.

Chair Giunchigliani asked if reciprocity is permitted on any needed equipment, as the drain covers are not widely available. Ms. Jones said that covers are being manufactured, however they must be standard ANSI/ASME covers, which are the only covers allowable by the Act.

Chair Giunchigliani asked that the plumbers' union be involved in discussion to ensure everyone is aware of requirements. She said that PIO may need to develop PSAs to simplify who and how businesses and residents are impacted by this Act. She further suggested that the Board write a letter to Senator Reid outlining some necessary changes. She asked that this be agendaized for discussion/action at a future meeting.

Member Smith said he met with the recreational director in Mesquite after the last Board meeting and is concerned about the City's compliance. He asked that a meeting be arranged with Mr. Hair and city officials, including HOAs. Mr. Savage noted that there are 450,000 permitted bodies of water in Clark County which are all affected by this Act and will need to be evaluated for compliance. There are some approved devices that staff would not allow to be on a permitted pool due to potential safety issues.

Member Kirk asked if the Board needs to take action. He asked that Mr. Savage draft an agenda item if the Board needs to take any action. He concurred that this is an urgent matter requiring attention.

Mr. Savage said that the larger resorts in town are asking for surveys to be conducted. The Board agreed that a survey fee should be assessed.

The Board directed staff to continue working with the pool industry regarding the guidelines established and to bring back any items which will require additional discussion and/or Board action.

Dr. Sands noted that staff is meeting almost daily to sort out the issues. This is very frustrating and staff wants to ensure the best service is provided for the community and industry while staying within our legal boundaries.

Chair Giunchigliani asked that the Board members bring their calendars to the next meeting. A request was made to change the Board meeting to the third Thursdays each month. Member Weekly has a conflict taking his children to school and is open to a later start time. Member Mattocks noted that for a short while the Board did meet at 9:00am. Member Kirk said that the meetings need to be shorter or start earlier – he is concerned about the length of the meetings of late.

Chair Giunchigliani noted that sub-committees could be established to discuss various issues and come back before the full Board with recommendations and any necessary action.

## **V. HEALTH OFFICER & STAFF REPORTS**

Dr. Sands announced that he will be traveling to Washington, DC in February to attend a Press Event with Senator Reid at the US Capitol for the launch of the safe injection practices campaign resultant of the hepatitis C outbreaks throughout the country.

### **Update on Tobacco Control Program: Maria Azzarelli, Senior Health Educator and Deborah Williams, Chronic Disease Prevention & Health Promotion Manager**

Dr. Sands said this update is in conjunction with legislative tracking. He commended the tobacco control program staff for their efforts, especially with limited funds. The program faces annihilation of funding from the Master Settlement Agreement (MSA) if the legislature uses the remaining funds to balance the budget.

A recent media ad was shown that ran on television in November depicting the dangers of second-hand smoke. Ms. Azzarelli shared a PowerPoint with the Board (**attachment #2**) and noted that smoking is the leading cause of preventable death, taking more lives than alcohol, AIDS, motor vehicle accidents,

illegal drugs, murders and suicides combined. Second-hand smoke is the third leading cause of preventable death.

The tobacco industry spends over \$116 million annually in Nevada to market their products; \$565 million is spent annually in Nevada on health care costs directly related to smoking. Health impacts of second-hand smoke exposure include increased risk of lung cancer and heart disease; for pregnant woman there is an increased risk of having low-birth weight babies and other conditions; for children there are increased risk of Sudden Infant Death Syndrome (SIDS), asthma, bronchitis, pneumonia, ear infections and under-developed lungs.

In 1999, before the Tobacco Control Program was in existence, the adult and youth smoking rates in Clark County were the highest in the nation at 30% and 33% respectively. Today the prevalence has decreased to 22% and 14% respectively – the youth smoking rate is now the third lowest in the nation. In 1999 the public was largely unaware of the dangers of second-hand smoke and there were no laws in place to protect the public from secondhand smoke. Today 90% of adults believe they should be protected from secondhand smoke and the Nevada Clean Indoor Air Act (NCIAA) was passed by voters to protect the public from secondhand smoke exposure.

The Tobacco Control Program was created using the Centers for Disease Control and Prevention's population-based approach and best practices and program goals. Staff uses extensive social marketing, outreach, diverse community programs, coalition building, community partnerships and education strategies to educate and inform the public of the dangers of tobacco use.

The program is funded by CDC via the state and the MSA via the state. Tobacco control funding has decreased over time and the MSA funds face further reductions in the 2009 legislative session. If funding is further reduced or eliminated, the smoking rates will increase as will healthcare costs. All past positive efforts will be reversed quickly.

Mrs. Williams noted that the Tobacco Control Program has been recognized regionally, nationally and internationally. An external evaluation was conducted by Battelle Memorial Institute finding that the program has the largest potential of all grantees in the state to contribute to reduction of tobacco-use prevalence in adults and children given the focus on multiple populations and strategies, coupled with adequate evaluation measures. The program has been extremely successful, and it has done so with funding well below the recommended per capita levels. With the funding now at risk, the ability to continue a successful program will decrease and smoking prevalence will increase rapidly. In order to fulfill our mission to protect the public, we must focus on controlling and preventing the use of tobacco. Staff is working diligently to protect existing funding streams.

Chair Giunchigliani commended staff for their presentation and acknowledged the decline in the smoking rate being directly correlated to the social marketing and education efforts of the tobacco control program. She asked if the tobacco money was part of legislative funding cuts.

Mrs. Williams said that the funding currently in jeopardy is the MSA; the program has already lost \$70,000 and the Special Session potentially cuts another \$100,000. The upcoming session could yield further cuts or complete elimination of funding. Chair Giunchigliani confirmed that staff is working in concert with other health districts and that our lobbyists are informed.

Member Strickland asked if the PSAs were available to other jurisdictions. Ms. Azzarelli said the PIO office makes them available to public television stations free of charge; the media firm on contract will make them available upon request.

Member Jones noted that there was discussion about annuitizing the tobacco money. Dr. Sands said in the first Special Session the Trust Fund for Public Health lost all funding from the MSA funds – the Trust Fund used the interest earned from the principal to fund public health initiatives across the state and

now no future projects will be funded. If further MSA funds are redirected to offset the budget deficit, two-thirds of the budget for our tobacco control program would be eliminated.

Chair Giunchigliani noted that other programs in the state are also in jeopardy due to possible redirection of MSA funding.

Member Christensen referenced a recent California study on asthma rates and ER visits. With the smoking ban in California, the rate dropped to 35% which provides further evidence that secondhand smoke is unhealthy. Dr. Sands said similar studies have been done in other areas with smoking bans relative to cardiac problems and the results are similar. Smoking has a major negative impact on the healthcare system.

**Update on Legionnaire's Disease Investigation: Brian Labus, Senior Epidemiologist and Mark Bergtholdt, Environmental Health Supervisor**

Dr. Sands invited Mr. Labus and Mr. Bergtholdt to update the Board on the recent Legionnaire's Disease investigation.

Mr. Labus shared a PowerPoint with the Board (**attachment #3**) and said that Legionnaire's Disease is a bacterial pneumonia caused by bacteria found in the water supply. It is not transmitted person-to-person – it is found solely in environmental investigations. Symptoms include dry cough, fever, sore throat, flu-like symptoms and pneumonia, and occur two to ten days after exposure. Risk factors include increased age, those who have under-lying lung problems and smokers. One case is considered out of the ordinary; two or more cases is considered an outbreak. Disease reporting is investigated in the state in which a person resides, even if the person contracted the disease locally.

In 2006, the Council of State and Territorial Epidemiologists passed a position statement urging the Center for Disease Control and Prevention (CDC) to compile a program to evaluate travel-associated Legionnaire's Disease. As most people who contract the disease are traveling and out of the area by the time symptoms develop. This event was the first time the district was notified via this procedure.

Staff was notified on September 26, 2008 by CDC of several cases of disease – two from October 2007, and one each from September 2008 and October 2008. The cases were all from different states and without the CDC's notification program staff would not have been aware of the situation. The team initiated an investigation and sought CDC's assistance, especially for the environmental investigation. On October 17, 2008 a letter was sent to all guests to find other potential cases, and staff posted a secure alert on CDC's EPI-X network.

There were twenty-four disease reports potentially linking people to the outbreak at the Polo Towers as they had developed pneumonia. Ten cases were sent for laboratory testing; four cases tested positive for Legionella via a urine-antigen test. Three of these cases were linked to the Polo Towers as they had been on site during the incubation period – the fourth case was not related to Polo Towers.

Mr. Bergtholdt noted that a CDC EPI-AID officer assisted staff with the environmental investigation, which included a survey of the Polo Towers' water system. The Southern Nevada Public Health Laboratory assisted by shipping the samples to the CDC where testing was performed on all water samples and swabs, which verified the presence of Legionella in the water system. When guests were notified of the outbreak, a fact sheet on Legionnaire's Disease was included to improve case finding. Polo Towers initiated an aggressive action plan to superheat the hot water systems and flush every outlet in all guest rooms. The chlorine dioxide levels were also increased in the portable water systems. Polo Towers also installed additional chlorine dioxide generators on the hot water outlet side of the hot water heaters, versus the inlet side where they were installed previously.

No new cases have been reported after the treatment was completed. Additional samples are taken every other week and the maintenance program is underway – all tests have been negative. Additional

sampling will occur monthly for the next three months. Pending negative results, it will be determined that Legionella has been controlled in the water system and a monitoring level will resume.

A letter was sent to all facilities in Clark County via the Nevada Resort Association to inform property managers of the need for a thorough hot water flushing to prevent occurrence of Legionella in the event rooms are not used for an extended period of time (**attachment #4**).

Member Jones asked what had changed since the previous outbreak, which was remediated. Mr. Bergtholdt said the bacteria could have re-colonized or there may have been a problem with the treatment or recirculation systems. Member Jones asked if the system had changed or been non-operational. Mr. Bergtholdt said no changes had been reported during that time and chlorine dioxide was generated during that period as well. Mr. Labus said that research of the conditions make this an interesting case, especially due to the reoccurrence of disease.

Chair Giunchigliani thanked staff for their presentations and for being a role model in the investigation.

Dr. Sands asked to recognize both Mr. Labus and Mr. Bergtholdt for their teamwork in the investigation and said this is an example of public health in action.

## **VI. INFORMATIONAL ITEMS**

***DULY NOTED***

### **A. Chief Health Officer and Administration:**

1. Monthly Activity Report, Mid-November 2008 – Mid-December 2008
  - a. Letter of Appreciation to Jacqueline Wilson, web content specialist, from MBC
  - b. Letter of Appreciation to Dr. Lawrence Sands from the United Way of Southern Nevada
  - c. Letter of Appreciation to Dr. Lawrence Sands from the Las Vegas Chamber of Commerce concerning his participation with FOCUS Las Vegas
2. Monthly Activity Report, Mid-December 2008 – Mid-January 2009
3. Financial Data: Revenue and Expenditure Report for General Fund, Capital Reserve Fund and Public Health Laboratory Fund for the Month of November 2008
  - a. Grant and Agreement Tracking Report, as of December 2, 2008
4. Financial Data: Revenue and Expenditure Report for General Fund, Capital Reserve Fund and Public Health Laboratory Fund for the Month of November 2008
  - a. Grant and Agreement Tracking Report, as of January 12, 2009
5. Public Information Monthly Report, Mid-November 2008 – Mid-December 2008
6. Public Information Monthly Report, Mid-December 2008 – Mid-January 2009

### **B. Community Health:**

1. Monthly Activity Report, November 2008
  - a. Certificate of Commendation for Kay Godby, March of Dimes Nurse of the Year
  - b. Polo Towers Guest Letter and Legionellosis Frequently Asked Questions (FAQ) – Version II
  - c. Guidelines for Rabies Post-Exposure Prophylaxis for Healthcare Providers
  - d. Influenza Surveillance Newsletter
  - e. November 2008 Disease Statistics
2. Monthly Activity Report, December 2008
  - a. December Influenza Update Newsletter
  - b. CDC Interim Recommendations for Use of Antiviral Medications for Treatment of Influenza During the 2009-09 Flu Season
  - c. December 2008 Disease Statistics
  - d. Quarter 4 2008 Disease Statistics
  - e. Letter of Appreciation to from Hepatitis Foundation International to Dale Klabacha, public health preparedness nurse

**C. Environmental Health:**

1. Monthly Activity Report, November 2008
  - a. Letter of Appreciation from Pacific Pools and Spas concerning EHS II Valerie Hirata
2. Monthly Activity Report, December 2008
  - a. Email noting Appreciation the Bureau of Waste Management, NV Division of Environmental Protection to Dennis Campbell and Glenn Savage

**D. Clinics and Nursing:**

1. Monthly Activity Report, November 2008
  - a. In-service calendar
  - b. Letter of appreciation
  - c. Letter of recognition
2. Monthly Activity Report, December 2008
  - a. In-service calendar
  - b. Letters of appreciation
  - c. Certificate of appreciation

**VII. ADJOURNMENT**

There being no further business to come before the Board, Chair Giunchigliani adjourned the meeting at 11:05 a.m.

SUBMITTED FOR BOARD APPROVAL

---

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

/src

attachments