



MINUTES

Southern Nevada District Board of Health Meeting

625 Shadow Lane
Las Vegas, Nevada 89106
Clemens Room

Thursday, January 28, 2010 - 8:30 A.M.

Chair Giunchigliani called the meeting of the Southern Nevada District Board of Health to order at 8:35 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
Linda Strickland
Tim Jones
Ricki Barlow
Kathleen Boutin
Susan Crowley
Robert Eliason
Donna Fairchild
Joseph Hardy, MD
Frank Nemec, MD
Barbara Ruscigno, RN
Lawrence Weekly

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

Absent:

Stavros Anthony
Jim Christensen, MD
Mary Jo Mattocks, RN

Councilman, Las Vegas
At-Large Member, Physician
At-Large Member, Registered Nurse

Executive Secretary:

Lawrence Sands, DO, MPH

Legal Counsel:

Stephen F. Smith, Esq.
Stephen R. Minagil

Other SNHD Board of Health Members/Alternates Not Present:

Travis Chandler
Tom Collins
Lonnie Empey
Karl Gustaveson
Debra March

Councilmember, Boulder City Alternate
Commissioner, Clark County Alternate
Alternate At-Large Member, Environmental Specialist
Councilman, Mesquite Alternate
Councilwoman, Henderson Alternate

John Onyema, MD
Steven Ross
Jimmy Vigilante
Anita Wood

Alternate At-Large Member, Physician
Councilman, Las Vegas Alternate
Alternate At-Large Member, Regulated Business/Industry
Councilwoman, North Las Vegas Alternate

Staff: Scott Weiss; Angus MacEachern; Glenn Savage, Jennifer Sizemore; Bonnie Sorensen; Jo Alexander; Kara Bennis; Stephanie Bethel; Jerry Boyd; Dennis Campbell; Nicole Chacon; Rory Chetelat; Alice Costello; Susan Eiselt; Steve Goode; Mary Hahn; Mary Ellen Harrell; Forrest Hasselbauer; Rose Henderson; Julie Hurd; Angela Jones; Paul Klouse; Brian Labus; Eric Lahr; Eddie Larsen; Christina Madison; Ann Markle; Veronica Morata-Nichols; James Osti; Patricia O'Rourke-Langston; Mars Patricio; Walter Ross; Patricia Rowley; Jane Shunney; Kimberly Svedberg; Vickie Swanson; Leo Vega; Kent Wertz; Valery Klaric and Shelli Clark, recording secretary

ATTENDANCE:

<u>NAME</u>	<u>REPRESENTING</u>
Alexis Barajas	Aramark
Mark Barajas	Aramark
Douglas Dobyne	Lunas Construction Clean-Up
Beverly Duran	Self
Amber Lopez Lasater	SEIU Nevada
Al Martinez	SEIU Nevada
Norberto Madrigal	Lunas Construction Clean-Up
Stephen Minagil, Esq.	Bruce Shapiro, Ltd.
Thanh Binh Nguyen	USN
Alex Stokes	Wynn Resorts
Bryan Wachter	Retail Association of Nevada
Mike Ward	SEIU
Dave Wendell	Self
Mark Zamora	KLAS TV
Steven Zappacosta	Station Casinos
Norine Clark	SEIU / SNHD
Gail Gholson	SEIU / SNHD

- I. Meeting of the Board of Health as governing body with its attorneys regarding existing/potential litigation – **CLOSED SESSION** pursuant to NRS 241.015.2(b)(2)

A motion was made by Chair Giunchigliani to close the meeting for the Board of Health as a governing body to meet with its attorneys regarding existing/potential litigation at 8:36 a.m.

CLOSED SESSION

The meeting recessed for the Southern Nevada District Board of Health to meet in Closed Session. Chair Giunchigliani reconvened the open session at 9:16 a.m.

IV. REPORT / DISCUSSION / ACTION

1. Review/Discuss South Street, LLC dba Casa Fuente v. Southern Nevada Health District; Direction to Staff

A motion was made by Member Strickland to approve the settlement agreement as discussed in the Closed Session; seconded by Member Barlow and was unanimously approved.

OATH OF OFFICE:

Southern Nevada District Board of Health Alternate Member

Chair Giunchigliani asked Mr. Smith to proceed with administering the Oath of Office to Frank Nemec, who sat in for Member Christensen.

Stephen F. Smith, Board Legal Counsel, administered the Oath of Office to Frank Nemec, MD – Alternate At-Large Member – Physician.

II. CONSENT AGENDA

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

- 1. Approve Minutes / Board of Health Meeting: 12/17/09**
- 2. Approve Payroll / Overtime for Periods: ~~11/28/09 – 12/11/09 & 12/12/09 – 12/25/09~~ *held for discussion***
- 3. Approve Voluntary Furlough Program Reports for Periods: 11/28/09 – 12/11/09 & 12/12/09 – 12/25/09**
- 4. Approve Accounts Payable Registers: #1208: 12/04/09 – 12/10/09; #1209: 12/11/09 – 12/16/09; #1210: 12/17/09 – 12/22/09; #1211: 12/23/09 – 12/30/09; #1212: 12/31/09 – 1/07/10**
- 5. Petition #01-10: Approval of HIV Prevention Service Awards for Calendar Year 2010**
- 6. Petition #02-10: Approval of Syphilis Elimination Service Awards for Calendar Year 2010**
- 7. Petition #03-10: Approval of Interlocal Contract with Clark County on Behalf of Clark County Department of Social Service for the Purpose of Delivery of H1N1 Flu Vaccinations**

Chair Giunchigliani asked if there were any discussion on the items brought forward on the Consent Agenda.

Scott Weiss, director of administration, noted that Item #7 should reflect funding from the Public Health Emergency Response grant, not the Public Health Emergency Preparedness grant as noted on the Petition. Chair Giunchigliani also requested that the verbiage be corrected to include “sexual orientation” as included in state law under the non-discrimination clause.

Board members asked to trail item #2 for additional discussion.

Seeing no further discussion, she called for a motion to approve the Consent Agenda as presented, with item #2 held for discussion.

A motion was made by Member Hardy to approve the Consent Agenda as presented, with item #2 held for discussion; seconded by Member Jones and was unanimously approved.

2. Approve Payroll / Overtime for Periods: 11/28/09 – 12/11/09 & 12/12/09 – 12/25/09

There was general concern in an overtime pattern, particularly with one employee in nursing and two in administration who seem to be receiving a large amount of overtime, especially when the district is looking at cost-saving measures. Member Barlow asked why there is so much overtime for some employees. Scott Weiss, director of administration noted that general overtime has been significantly reduced; however many employees have been involved with the H1N1 vaccination response, and overtime is provided by the H1N1 grant.

Member Boutin requested that staff more fully review the overtime sheets. Chair Giunchigliani asked that the overtime sheet more fully break-out overtime which is grant-funded and that paid by general funds. The current collective bargaining agreement allows employees to select compensatory time versus paid overtime for hours worked – this equates to overtime taken at a later date. Retirement is not paid on overtime.

A motion was made by Member Barlow to approve the Item #2 on the Consent Agenda as presented; seconded by Member Eliason and was unanimously approved.

III. PUBLIC HEARING / ACTION

1. ~~**Memorandum #01-10:** Application for Approval for A Recycling Solution, LLC to Operate a Solid Waste Management Facility – Materials Recovery Facility, Located at 2711 Rimbey Street, Las Vegas, NV 89115 (APN 140-17-310-005, 140-17-310-008, & 140-17-302-009) **Continued to the February 25, 2010 Board of Health meeting**~~
2. ~~**Memorandum #03-10:** Application for Approval for a Temporary Permit Top Dollar Recycling Center, LLC to Operate a Solid Waste Management Facility – Recycling Center, Located at 3417 Losee Road, North Las Vegas, NV 89030 (APN 139-11-701-008 & 139-11-701-009) **Continued to the February 25, 2010 Board of Health meeting**~~
3. ~~**Memorandum #05-10:** Adoption of the Proposed Regulations Governing the Management of Waste Tires **Continued to the February 25, 2010 Board of Health meeting**~~
4. ~~**Memorandum #06-10:** Approval of Southern Nevada Health District Regulations Governing the Sanitation and Safety of Body Piercing Establishments; Consideration of Business Impact Statement **Continued to a future Board of Health meeting – date to be determined**~~
5. **Memorandum #02-10:** Application for Approval for Lunas Construction Clean Up to Operate a Solid Waste Management Facility – Waste Tire Management Facility, Located at 4830 E. Cartier, Las Vegas, NV 89115 (APN 140-17-701-006 & 140-17-701-007)

Chair Giunchigliani declared the public hearing open.

Glenn Savage, director of environmental health stated that staff is working with industry and Senator Copening on development of waste tire regulations. Staff is available to answer questions of the Board as this item is discussed today. Chair Giunchigliani noted that the state

law is being modified which could further affect the pending regulations. A permit will be required by all facilities seeking to provide management of waste tires once all the regulatory pieces are in place.

Walter Ross, environmental health supervisor/engineer, and Kent Werz environmental health specialist II, spoke relative to this matter. Mr. Ross said that Lunas Construction Clean Up has met all requirements to operate a waste tire management facility, including state regulation found in NAC 444A.

Staff recommends approval based on conditions as outlined in the memorandum and a final inspection. Condition #4 reads: "This facility shall submit a permit modification within four (4) months following the adoption of any solid waste management authority regulations governing waste tire management facilities to comply with additional regulatory requirements of those future regulations." The pending regulations will incorporate any state law put in place, including SB 186 regarding waste tire management. This particular facility will be required to comply with any additional requirements that may arise that do not currently exist, pending passage of the regulations.

Norberto Madrigal and Douglas Dobyne, both representing Lunas Construction Clean Up., were present to answer questions of the Board. Chair Giunchigliani asked Mr. Madrigal if he understood and is in agreement with the conditions as specified; Mr. Madrigal responded affirmatively.

Industry is aware of the pending regulations. Mr. Madrigal noted that his business will do what must be done in order to comply with the regulations once in effect.

Dennis Campbell, solid waste and compliance manager, noted that SB 186, enacted in May 2009, became law on October 1, 2009. The law requires regulations for management of waste tires. Several workshops have been held, in addition to a stakeholder meeting – there continue to be several items to be addressed, including the impact of SB 186 and the developing regulations. Public comment on the most recent version of the regulations closes tomorrow afternoon and the regulations will again be revised to incorporate and address any comments which came forward. All comments will be shared with all workshop participants as well. Staff is working with Senator Copening, as well as industry, to address issues raised.

Any facility not complying with the regulations will need to submit a revision to their application. If this is not completed, staff would move forward with the usual and customary enforcement process, which could result in permit revocation. All businesses are given due process. Some issues may require additional action by the Board of Health.

All tires at this particular facility are stored in metal containers. The only recycler in town is in close proximity which enables a quick process for tire removal. Staff places a tarp over the containers when there is excessive amounts of rainfall to control pooling of water, which could lead to mosquito growth. A regular maintenance schedule also removes any standing water.

There is currently a dollar disposal fee per tire when new tires are purchased. 90% of the fee goes to the State Department of Taxation and the balance is allotted back to the local jurisdictions. The Board approved an application for a waste tire recycling facility last year, which separates metal, the nylon and other materials and the resulting materials are used for other means, such as road paving and in artificial turf on playgrounds.

The purpose of the permit is to permit a waste tire management facility, which is basically a recycling center which will allow the facility to handle more than ten times the current capacity. The end goal is recycling of tires and this permit provides more opportunity for that venue.

Under existing law, the general public can take their tires to a public landfill; however the public may also take tires to a recycling facility. Chair Giunchigliani asked that the language on page two of the permit be changed to reflect existing law.

It is a known practice to take waste tires to surrounding states for processing. This process can become an expanded source of revenue for Nevada by encouraging processing of waste tires locally. Due to the size of some construction tires, processing is done in other states; however the raw materials are brought back to Nevada.

Lunas owns thirty acres in a one-mile radius, which would allow for expansion and storage if needed. The facility only can accommodate fifty people on site at any one time, which far exceeded the number of individuals on site currently. As the tires are housed in steel containers any spontaneous fire is easy to smother and will not spread. As tires are taken to the recycling center on a very regular basis, there is little chance for decomposition.

Chair Giunchigliani asked if anyone else wished to testify on this item. Seeing none, she closed the public hearing.

A motion was made by Member Weekly to approve the application with the conditions as outlined with the change in wording on page 2 from "does not accept waste tires from the general public" to "may accept waste tires from the general public;" seconded by Member Barlow and carried unanimously.

6. Memorandum #04-10: Adoption of the Proposed Southern Nevada Health District Regulations Governing the Sanitation of Food Establishments and Appendices

Chair Giunchigliani declared the public hearing open.

The following is a verbatim transcription of the public hearing concerning Memorandum #04-10.

Dr. Sands: The next item is Memorandum #04-10; this is the adoption of the proposed Southern Nevada Health District Regulations Governing the Sanitation of Food Establishments as well as supporting appendices. We have here Mary Hahn and Rose Henderson, supervisors with our environmental health division to present on this, as well as Steve Goode, environmental health program manager. I know many of you received a memo from Member Jimmy Vigilante and I also just want to echo his support and appreciation for staff and let everybody know that. This has been about a five or six year process and it's quite an enormous task, as you can see just by the volume of the paper generated, because it's quite a lot of detail – it's been a long time since we had these updated and bring them into compliance with national standards, but also just how well they worked with industry and be able to address their issues and make sure that the package you receive today does represent by and large, I think, a good consensus of not only among staff but also the stakeholders with us. So with that, Mary, Rose and Steve will begin the presentation.

Steve Goode: Thank you, Dr. Sands. Good morning, Madam Chair, Board members. As Dr. Sands says, this has been quite a long process that we've been on, almost ten years, writing these regulations. And so we're very proud of the product that we bring forward today. Before I turn it over to Rose and Mary, I'd like to just acknowledge some of the staff members that were involved in the process. I think that all of the operational staff were involved to some degree, but specifically I'd like to thank our training officers Ms. Christine Sylvis and Susan LaBay, who were very influential in our technical writing of this regulation. Also I'd like to thank Dr. Karl Hertz, who is one of our EHSSs, who took the time to go through the regulation. And finally the three ladies that were most influential, who spent the yeoman's time with the regulation, we had Rose Henderson here, who's our operational supervisor from the Henderson office; Mary Hahn who's the operational supervisor from the Spring Valley office; and the person who always keeps me on track, my administrative secretary Sandy Bigley. So with that I'll turn it over to Rose and Mary and after the presentation I'm sure there'll be some partners that we work with in the community that would like to come up and say a few words. And we'll be here to answer any questions at the end. Thank you.

Mary Hahn: Good morning. I wanted to set the scene for what we are about to talk about and why food safety regulations are important and why they need to be updated. We all like to know that when Las Vegas hits national news we only want good things and occasionally when Las Vegas hits the national news we all need to pay attention and realize and deal with why Las Vegas would hit the national news. This is a video that was on TV (**attachment #1**).

VIDEO CLIP SHOWN FROM CBS NEWS: "Where America Stands" from January 9, 2010

Ms. Hahn: I believe all of you remember when the major casinos were pulling spinach off the buffets and ingredients – they were even pulling spinach out, fresh spinach out of the ingredients that were going to be cooked, which would have made any product safe. So it's unfortunate that someone from Henderson, Nevada went through this; but I can tell you that I want to hire that young lady as a health inspector when she grows up because of the fact that she touched her jeans and she had to wash her hands – we could all learn from that. This is why we're updating the food regulations. Another article was in the Las Vegas Sun recounting her story just this past month, in December, and it was basically recounting her story, about the pathogens of the bacteria are emerging and changing all the time. What used to kill them doesn't necessarily kill them now – they become, they modify their genetic structures to change and there's better science out there. The days of people saying, "oh I got sick" and never being able to trace it back to a food, the science is there and we can trace back some foodborne illness outbreaks to the exact food that caused it.

The food industry is very creative in what they're doing and they're always adding new items to their menu. Who would have thought ten

years ago that emu would be on the menu, or that fallow deer would be on the menu. Heaven knows I don't think...

Chair Giunchigliani: Half the world...

Ms. Hahn: ...other than hunters who kill moose, I would have never thought moose tenders would be on the menu. Due to the emerging pathogens out there we have an ever-increasing list of potentially hazardous foods. Coming from the south when I went to a picnic watermelon sat out on the picnic table all day and we know now that that can't be done because watermelon will grow bacteria. Cut tomatoes are now classified as potentially hazardous; bean sprouts, those...we're having an ever-increasingly list of potentially hazardous foods. And the packaging changes...we're finding that the packaging's going to make the product look fresher longer, it's going to be shelf-stable or whatever and they create packaging changes. So the food industry is a very creative and an ever-changing industry that the food regulations need to stay up on.

The process that we went through...the last time the regulations were updated were in 1996 and over that time period we have found out that the regulations have not been kept up with the times. So back in February 2007 we started meeting with industry, we had about forty-five industry partners from various associations, the major casinos, we had a Board member that was on the industry partnership and six environmental health staff met with industry for a period of about a year and half to two years to discuss every single chapter in the FDA Food Code. The FDA Food Code, if you're not aware of, is developed by the Conference of Food Protection and approved by the FDA – the Conference of Food Protection is regulators, partners from industry, state and local health authorities and scientists, so it's a compilation, it's a very arduous task. We would like to get more closer to what they are doing so we don't have to work as hard, maybe, because the science is there. We also had a request from our national franchises that we need to adopt the Food Code, but instead of adopting the FDA Food Code, which changes every five years, we decided to mirror the Food Code. So the first eight chapters of the Food Code are from the, excuse me, of our regulations that you had to review, are from the Food Code and then nine through fifteen were developed by environmental health staff for the peculiar issues in Las Vegas, to address our extremely long swimming pool season and people wanting their cocktails at the swimming pool...

Member Hardy: Madam Chair?

Chair Giunchigliani: Mm-hmm, yes?

Ms. Hahn: ...you know, wet houses and whatever. Yes, Dr. Hardy?

Member Hardy: When we mirror our Food Code, is that an on-going mirroring so that in regulation we have automatic updates or is it everything has to come back to us when the feds change their...

- Ms. Hahn: No, not everything has to come back to you when the feds change. We are mirroring, we are not adopting the Food Code, by reference.
- Member Hardy: ...we basically are automatically updating as we go then...
- Ms. Hahn: Yeah, in the things that change is the temperature requirement, what is a potentially hazardous food, chemical sanitizers, ones that are ever-changing – we reference the Food Code, the most current edition of the Food Code, so that will not need to come back because we reference it in the document.
- Member Hardy: Thank you.
- Chair Giunchigliani: And they're based on the edition, so it's like in work comp when you reference the updated amendment, OK. Correct?
- Ms. Hahn: Correct. We have the last fifteenth chapter. We also included appendices. Staff hand out informational guidance documents at various times, so we added those to the appendix, and again those are guidance documents, not regulatory. So that is a basic decision of why we decided to update the regulations. If the regulations are approved today, we all know they have to go to the State Board of Health for approval and then they have to be recorded. Prior to implementing these regulations you can see that we're going from a forty-nine page document, our current regulations, to one hundred eighty-four, is I think the last time I counted, so there's going to be training involved. And not just training for our inspectors, but for industry and we already are getting partnerships with industry so that this training can operate and go simultaneously, so everybody's being trained at the same point and in the same inspection process. We're also currently working with industry to revise our inspection. As you well know, because I believe you approved it last month, we're going to go with Decade software and we're going to become computer-oriented, so our inspection has to be able to be placed on the computer. So we are working on a new inspection with industry right now, and that will be done prior to implementing the food regulations. We intend to give industry, and all of our permitted facilities, written notice as to when the regulations that you possibly approve today will be put in place.
- Member Hardy: Madam Chair?
- Chair Giunchigliani: Yes, Dr. Hardy.
- Member Hardy: Then when we do the mirroring of the federal Food Code, industry obviously is aware of the federal and so they know that we are, or is there an ongoing educational commitment on our part with industry to make sure they are updated with the Food Code as it morphs and changes?
- Ms. Hahn: Our industry partners are well aware of the Food Code, because if our regulations coincidentally don't happen to comply with what the Food

Code says, they will tell us, "well the Food Code says it." The current version of the 2009 Food Code just came out and as there will be a supplement probably in another year, and we stay on top of that and industry is aware of it. And often we do provide information to industry regarding the changes in the Food Code.

Member Hardy: So when we're "dinging" somebody as we inspect or whatever, we're flexible in that interim, because it may be us that's "dinging" because they know something more than we do, because it's more up-to-date, so there's an educational process more than a punishment process.

Ms. Hahn: A good example of that is when our regulations were written in 1996, "time" wasn't allowed as a public health control, but shortly after that the FDA Food Code allowed "time" as a public health control, and we allowed facilities, as long as they provided written documentation to us on how they were going to eventually either monitor the temperatures and throw it out at the end of four hours or their procedures...so yes, we have done that educational without "dinging" them.

Member Hardy: Thank you.

Member Ruscigno: Yeah, that...

Chair Giunchigliani: Barbara.

Member Ruscigno: ...Madam Chair, that would be my question. Some of the high-risk foods that are out there that we already know that the public likes to consume, sushi being one of them. So how strict are we with the holding to temperature codes and everything else with that?

Ms. Hahn: Sushi's another good example, which we do have an appendix in the back document for sushi, because those of you who are sushi aficionados like to eat your sushi at room temperature. And if you know the sushi process you know they're adding vinegar to the rice, which is, the cooked rice, which is the potentially hazardous product...

Member Ruscigno: OK.

Ms. Hahn: ...so the rice...we have an appendix that helps them through that. We require challenge studies to make sure that the rice is at the appropriate pH and as far as temperature. Now, those of you who like to eat the raw fish in your sushi, we have a consumer advisory in the regulations for years, so, yes, that...we try to address those issues by putting either advisories in there or helping with appendixes in the back.

Member Ruscigno: OK. Thank you.

Ms. Hahn: Another one would be the raw oyster.

Member Boutin: Yes, oh...

- Chair Giunchigliani: Don't take my oysters away.
- Ms. Hahn: I'm sorry?
- Chair Giunchigliani: Don't take my oysters away.
- Ms. Henderson: We'll just make sure there's an advisory there for you to read.
- Chair Giunchigliani: If my husband shucks 'em, I'll eat 'em. But I think that...I think you've done a very good job of working through a very cumbersome...
- Member Ruscingno: It's fabulous.
- Chair Giunchigliani: ...six hundred and some odd page, but working with the industry itself. And I'm looking at the business impact statement...it says that the enforcement and operational costs should be minimal. Is there an accompanying...oh boy...is there a fee schedule then that goes along with this as a fee increase of some sort or is this just simply, currently just the regulation and that's a secondary issue?
- Ms. Hahn: Excellent question, and industry has been asking that. The fee schedule...we have the term "applicable fees" in here, but we do not specify any fees because traditionally the fee schedule has been a separate document that you are familiar with and that would have to go through the workshops and approval process separate to the regulations.
- Chair Giunchigliani: Whenever we do something, or is recommended to do something, then they'll have another additional public opportunity to be able to deal with that.
- Ms. Hahn: Yes, ma'am.
- Chair Giunchigliani: And, yes, Tim. Go ahead.
- Member Jones: I think we do see that through the new regulation there are going to be some processes for waiver with HACCP plans and operational plans and that will come about with some fees for health district staff to review – that's well-known now to the industry. So that's looks to be an OK situation.
- Chair Giunchigliani: And when you said that forty-five vendors, that I believe there are places that actually have folks that deliver to the back of the house, so they're all included in that part of it as well, transporting food from one place to another and so forth?
- Ms. Hahn: We have included, that's one of the chapters that we sort of developed, because we have "waiters on wheels," as a good example, "food on the run," because they are employees of a permitted food facility, they basically pick it up. We've added some language to include those operators.

- Chair Giunchigliani: And, OK. I commend you. I think you've done a good job. I still think, personally, that a little bacteria actually helps us fight off a little bit, so glad to see that we didn't go so overboard that people...the waiver component...the other exceptions of changes that come in culturally with food that we have to recognize, but make sure that people are still safe, so I think that you tried to maintain that balance there. I will open the public hearing. Is there anyone here that wishes to testify or make any additional comment to the proposed regulations? Yes, please come forward. Good morning.
- Alexis Barajas: Hello. I'm Alexis Barajas. I wanted to comment on the catering section specifically of the proposed regulations in that it does not specify about the hand-washing sinks being at the food preparation area, but rather it makes a general statement that the hand-washing sinks would have to be at any site where catering is going on. And so I'd like to address that.
- Ms. Hahn: Thank you, Alexis. I met with Alexis basically to inquire how her two-year old was doing, but we talked about this issue at...hand-washing stations or whatever. And she pointed out the section that she was referring to was in the catering, chapter 12-305.11 and in talking with Alexis, we wanted to add that all food items...a catering food establishment shall assure that food is delivered to a remote service site location and to an event location at required temperatures and protected from contamination. And her issue, she had an issue about the hand sinks, so we wanted to add at the end of "B," "adequate hand-washing sinks shall be provided at remote service sites or at the event location where open food preparation or dish-up is occurring." And Alexis felt that, in talking with her, that was her concern that yes, we'll have hand sinks in those areas, but it doesn't address the dining room areas where people are actually serving food already to the customers.
- Chair Giunchigliani: It will not deal with the dining room area, is what...and that makes sense...
- Ms. Hahn: And that's why we added that statement...
- Chair Giunchigliani: ...so what you're saying is that they cater to a person's individual home, that there needs to be a sink available? I mean, we're not making them install something different no separate, correct?
- Ms. Henderson: There's some circumstances where they might have a large banquet hall which they're servicing and I believe that Alexis wanted to add a little bit more detail as far as where the employees would be washing their hands, and of course where that would be necessary is if they're doing any on-site preparation or if they're dishing up from bulk. It would not be reasonable to change the general lay-out of the banquet room where they're actually bringing the plates in to serve. So that we're providing more definition to that section...
- Chair Giunchigliani: From more of the back-of-the house is what the clarification is...

Ms. Henderson: Absolutely. Absolutely. But we just added a bit more clarity due to the concern.

Chair Giunchigliani: OK. Does that answer your question as far as...

Ms. Barajas: Yes.

Chair Giunchigliani: OK. So if in approving this we would accept those changes the Board would consider the acceptance of that additional language to clarify the idea of the hand-washing access.

Ms. Henderson: Please consider the section.

Chair Giunchigliani: Thank you very much. Is there anyone else who wishes to make a comment or testify? Please come forward. Good morning.

Alex Stokes: Alex Stokes. I'm the director of health and food safety for Wynn Resorts. I have a couple items here I'd like to discuss today. First I'd like to commend everyone on the regulation – I've worked on the committee for almost two years, right down to the last draft, I even had 132 comments on the last draft – most of them got implemented. Industry's doing a good job in helping it along, but I do have a couple things that I'm concerned about. In chapter 3-502.13(c)(4) when it's talking about "except that FISH is frozen before, during and after REDUCED OXYGEN PACKAGING shall require submission of a HACCP PLAN for review and approval by the HEALTH AUTHORITY." My contention about, I've had several discussions with the staff, my background is just about as thorough as theirs – I worked twenty-two years in the military in food inspection, six years with food safety inspection service, and also with the health department here for seven years – I know the importance of food safety. But when we're talking about processing fish, it's very specific. If you're processing fish to be, for storage, it has to be vacuum-packed after it's frozen, during frozen, and you can't even thaw it in the vacuum package. But what I'm concerned about is an operation. For instance, I have a fine dining staff, I have a chef that wants to take an 8-ounce portion of fish, put the seasonings in with it, with some oil, vacuum pack it and immediately drop it in to water, boiling water, to enhance and seal all those flavors of the fish, open it up and service immediately. So that's my contention is that their definition of what they're referring to is implying a process procedure for storage...

Chair Giunchigliani: Mm-hmm.

Mr. Stokes: ...any length of time. I'm talking about a process for immediate service to the customer and there should be a way that we can have a waiver to where we do not have to maintain a HACCP program. I've worked with HACCP, I'm a certified HACCP manager, and if you're truly doing a HACCP program you're going to document time and temperature, you start the operation, time and temperature, it came out of what you're doing and you're going to maintain your records, you're going to maintain your viability as far as the process that you're

doing, you're going to maintain the records, you have to lab test the [indistinguishable comment] to validate, so you're talking about a cost for a procedure that's the cook and immediately serve to the customer. I think there's a little disconnect between all of us in general. I just attended a two-day workshop with the FDA. Even in the workshop with fifty-five people present, Tim being one of 'em, we disagreed on the terminology or the procedures on whether or not it's going to be a storage process, whether it's a cook/chill or whether it's a sous-vide or whether it's a cook and serve immediately. So I'm just asking that they would add that you would be able to grant a waiver for the requirement of HACCP, if you do the initial test or whatever they're wanting us to do to incur the cost to send off to a processing lab. We do not have processing procedures or authorities in the state of Nevada. I've reviewed the list that they give me – three-fourths of the list refers to low-acid, hermetically sealed items. So you're talking about a long-term storage process, not a cook and serve item.

Chair Giunchigliani: So may I ask you then, why, if that's a consideration, why would we put it under 3-502, which is a processing category versus what you're talking about, which could actually in 3-501, if...I'm reading this very quickly, which is more a serving section.

Ms. Hahn: In dealing with this processing aspect that we at first quoted right out of the FDA Food Code at the request of our partners, we re-worded it. And in dealing with this particular section on "C" fish was pulled out because of the dangers of fish. When you're talking about reduced oxygen-packaging, we're talking a lot about of things, and in fish, when we're talking for fish, we're talking *Clostridium Botulinum* and *Listeria*. And we're talking *Clostridium Botulinum* is a vegetative cell that possibly can turn into a spore and that spore can possibly turn into, produce toxin. Now we know botulism is, it's potentially fatal, it's food poisoning – symptoms are general weakness, dizzy...

Chair Giunchigliani: Let me go back to my question...

Ms. Hahn: OK.

Chair Giunchigliani: ...I'm not talking about botulism. I'm talking about the issue of apparently preparedness – preparation versus a processing. And I think what the gentleman is delineating, and maybe I didn't get that correctly, is a method of preparing something for service. It's a marination is what you're talking about, and so you're enhancing the marination very quickly and then you're doing your service versus the packaging, which is intended to "vac" it and then hold it for later distribution. Am I understanding that correctly?

Ms. Henderson: If I may qualify, can you hear me on this?

Chair Giunchigliani: Yes we can.

Ms. Henderson: OK, very good. If I may qualify, with the reduced oxygen packaging, you are taking oxygen out of the element...

- Chair Giunchigliani: Mm-hmm.
- Ms. Henderson: ...so, and botulism grows in what's called an anaerobic environment...
- Chair Giunchigliani: Mm-hmm.
- Ms. Henderson: ...now none of us in this room are processing authorities. FDA historically has dealt with processing where they're packaging for later service, that is correct and that is why the wording here is reflective of that. However none of us in here can guarantee that with this particular procedure that Alex is speaking, once you take oxygen out of the element there isn't going to be some spore development. A processing authority would have to determine that, just because of the fish product being so indicative of having the possibility of having botulism in there.
- Ms. Hahn: When...and...
- Ms. Henderson: So that we don't know, we can't guarantee that his process is safe – all we're saying is that it should be a documented procedure, which goes to an authority, particularly with this type of bacteria, because this is a relatively new thing that he's talking about – the creative and new things which Mary had discussed earlier in this...
- Chair Giunchigliani: Now I think that's why the question came...could there not be a waiver which there's documentation...
- Ms. Henderson: He could apply for a waiver, give us the process, and then an expert having reviewed the process can validate that this would be safe. That keeps the district at lower liability for approving that waiver and also protects industry if someone consumes that product it was an authority that said the process was safe. The regulations do allow for that, but due to the risk of botulism, and I've heard audios, as has Mr. Jones and Mr. Stokes, from an individual that got botulism. I've got that audio with me in case you want to hear what happens to an individual. This is something so severe that we have to err on the side of caution and make sure it's an authority. We're not just looking at different internet papers on this, because it is new. People haven't been doing this and people that have been doing this have not been aware of the risk in this.
- Chair Giunchigliani: And there's liability to the health district in what way?
- Ms. Henderson: If what Alex is saying, he wants to have this type of cook and serve procedure just approved, and...
- Chair Giunchigliani: He was asking for a waiver.
- Ms. Henderson: Are you saying...

Mr. Stokes: I was asking for a waiver for a requirement to maintain all the HACCP requirements, which cost us FTE, time and delivery. I'm not saying, I'm not agreeing with what you're saying, but I've been around for quite awhile and I know that you can't grow C-BOT, *Botulinum*, in thirty minutes, you're not going to grow it in ten minutes, from the time that it's dropped into the boiling water, taken out, opened up and served on the plate. I mean, you know, you can caution to the extreme all you want, but there's practicality...when you put on the requirement "maintain HACCP documentation," for a cook procedure, we're not talking about a storage procedure, I'm talking about a cook procedure – you're talking about time, temperature monitoring, lab results, an individual's time to do this, and I gave them an example just today. We have a seating of 450 people, that was fish special. They come in, it's fish special that we cook in a vac-bag, customer order and request. First round of orders was fifty-five. If I were doing a HACCP program, I would be doing immersion technique, taking the bottle dropping in it with the filet at the time, I would have to have a pre-chilled bottle showing that it started at the temperature that the first portion was starting with and drop it in, you bring it up to a temperature of 145 so it's cooked, you open the bag and serve it, I would then have to have someone document all of that, I would have to take that bottle or immersion probe back and pre-chill it back down to 45° at the time that I want to do the next filet. So I'm just saying, you know, that it's...I want a waiver for that portion. I'm not saying a waiver for what we're doing is preparing something new...sous-vide has been done for over twenty-seven years in France, and it's an advanced technique...

Chair Giunchigliani: Ah, I love sous-vide...

Mr. Stokes: ...even there's a lot of things we can do. I don't have a problem with documenting how we're doing it, SOPs for sous-vide, cook/chill, whatever, but when it's a specific cook-process, it's not going to take more than three to four minutes I think we should be able to exempt the requirements of HACCP.

Chair Giunchigliani: OK, let me have Dr. Joe, questions, OK?

Member Hardy: Realistically what happens with regulations and rules is they're invented by people on the ground and not at the federal government level. And so we're basically hearing common sense as a potential waiver that will be expanded into a food code that we will mirror that we actually created and allowed to happen because it makes sense. And, you know the *C-botulinum* isn't going to happen quickly obviously, so I concur with the concept of the waiver, it just makes sense. But the storage, obviously, is a different issue and that I think is a different issue as the Chair has pointed out and depending on where you put it in your layout than there's where I would be comfortable.

Chair Giunchigliani: Donna, did you have a comment?

- Member Fairchild: No.
- Chair Giunchigliani: So, yes?
- Ms. Henderson: In speaking with Mr. Goode, we did look at Alex' concern...
- Chair Giunchigliani: Mm-hmm.
- Ms. Henderson: ...due to not knowing with all assurance that with this process, and of course with his business of monitoring as far as how long the product will be between that cook and the service, may be very precise. We have to write regulations that will serve all of the community. One thing that I would possibly bring forward for both industry consideration and of course the Board, is if you're looking at that particular section which Alex is speaking of, which is section 3-502.13(c) and the most troublesome in that, I believe, is number three. A HACCP plan can be as detailed as what Alex has stated; however when he's speaking of that particular procedure where it is put in immediate service, often times they will have studied how long it takes that fish to cook in that bag – they know what the final temperature's going to be. The critical limit with that would not be the final temperature so much as the amount of time between when they take it out of that package it was cooking and when they serve it. That would be the procedure that would need to be reviewed. But again, as an assurance, since he would go to the processing authority a single time with this particular procedure, there would be an assurance both for his employer and for the health district that that is safe, because we can't say with all assurance it is. What I would ask for possible consideration under number three, which is the most restrictive part of that, is preempt what is said there "unless otherwise determined by processing authority to be safe" and that we "would defer to that authority of that particular type of bacteria that that process is safe," so we would like to have that for consideration.
- Chair Giunchigliani: Who's the authority? I'm not sure I'm understanding...
- Ms. Henderson: Again, there are a number of processing authorities...
- Member Jones: Could be a third party laboratory that...
- Ms. Hahn: Third party laboratory, many universities do it in their science department. The Desert Research Institute could do it if they chose to go that way...
- Member Jones: I would say another option which was seemingly done in San Francisco for ducks was just to have an industry group put together and this is a common practice we could do an industry group to go to one authority and come up with a cook process that would be acceptable in our area.
- Chair Giunchigliani: OK, Kathleen?

- Member Boutin: How long have you been using this certain procedure in preparing this dish or similar dishes?
- Mr. Stokes: Five years, since we opened the Alex restaurant, five-star fine dining restaurant.
- Chair Giunchigliani: And sous-vide and...
- Member Boutin: So you do serve...
- Mr. Stokes: But I'm not talking per se sous-vide in general, because normally sous-vide is a long-term process – it could be eighteen to twenty hours cook time and you're preparing the day before, slow-cooking process, you might shock-chill it, brought down to maintain 34°, you may not serve it out of that bag for two or three days. You know, three days normally is the max seventy-two hours. I'm talking about for immediate consumption – immediate vac-packing with the seasonings, cooked in the bag and served immediately. Now to me that's the distinction between a true sous-vide process as far as how you're doing it proper. And there's a difference between cook procedure and storage or a packaging procedure and when you're talking about hermetically sealed and cooked in place, that's a lot different between an actual cooking process.
- Member Boutin: It seems to me that if he's been doing this for five years and his industry counterparts have as well, if we had an incident where we had a severe outbreak we would be able to track that if were caused by this procedure, correct? Have we...do we know of anything that has been so profound that we should put this in regulation?
- Ms. Henderson: Councilwoman, I can't guarantee you that this process, without a processing authority looking at it, that will be safe, and it would just take one case of botulism to impact that individual and the industry here in Las Vegas that I have a concern that I can't recommend that without a processing authority looking at it. If a number of industry partners go to a processing authority with this particular process with certain control limits on it, with the time between when they open up the package post-cooking and when they serve that product there would be an assurance for everyone in this community, and that's what I'm saying...
- Chair Giunchigliani: I believe her question was...
- Member Boutin: Yeah, I did ask that...and do you know of any instances that have occurred recently as a result of using this technique?
- Ms. Henderson: No, not with his particular business with his particular technique.
- Member Boutin: What about in Clark County at large? I mean, do we have any numbers that can indicate to the Board that this may indeed be a viable health risk for our tourists?

- Ms. Henderson: Thank goodness we don't have many – we had one that was not with this particular process. We have had one up north, which I have the audio of that individual and how she was affected. I'm concerned because we're not talking about salmonella, we're not talking about Norovirus where people might have some intestinal difficulties for a few days if they're not immune-compromised – I'm talking about botulism where they either die or they know what's going on around them but they're totally paralyzed. So I worry about that and that's why, you know, I'm taking such a strong stance on it. If it happens once, that's all it's going to take.
- Chair Giunchigliani: I don't think anybody's questioning your concern; however part of our job as regulators is to be reasonable while promoting safety. And I think a five year history of no incidents...and in the long run they're at risk of losing far more but not doing it the right way, I think we have to listen to the industry to some extent...
- Mr. Stokes: I'm not talking about exempting the procedure...
- Chair Giunchigliani: You're just...
- Mr. Stokes: ...I'm just talking about them exempting the requirement for the HACCP and the procedure...because HACCP can get very, very detailed, you know. If you're not familiar with what, how far you want to go with it and as the regulations change and HACCP is mandated and how far do they want to take it. I'm just saying that we should be able to substitute an operational-reviewed procedure in lieu of a mandated HACCP program.
- Member Barlow: I agree.
- Member Jones: I think...
- Chair Giunchigliani: Tim?
- Member Jones: ...if I could make a point. I think that we are using the term "HACCP plan" and what the health district is looking at in this particular cooking procedure may not be as extensive as what you are perceiving it to be. There would be a HACCP plan that would be submitted to the health authority, approved by the health authority, I think that that HACCP plan may not be more extensive than just showing the critical limits of time, cooking, things of that nature – it would not necessarily have to be something that would be laboratory testing in terms of the HACCP plan. So I think I have a comfort that we're not asking industry to be at an extreme level in this...another point I would bring up in terms of the *botulinum* type of infection is that it is certainly not common but it is a very severe type of outcome in the industry so that it's worth protecting the public against having that type of exposure, even though it is a very rare type of exposure, when it does occur it would be a devastating type of outcome. And I think that we're not putting just a big control on it that it would be onerous for industry to have a HACCP plan that would be reviewed by the health authority.

- Chair Giunchigliani: Dr. Joe?
- Member Hardy: Thank you, Madam Chair. I had a PowerPoint presentation recently that said that France was 1% of their food problems and sous-vide sounds very French.
- Chair Giunchigliani: Sous-vide is an old French technique, actually if you read Waverly Root's Foods of France, which is a phenomenal book in and of itself, it gives you the entire history of everything from butter to lard to every kind of preparation that you can...
- Member Hardy: I never actually had the chance to digest that book.
- Chair Giunchigliani: I'll get you a copy for your present.
- Member Hardy: I'm having too much fun, aren't I?
- Member Weekly: Yes you are.
- Member Hardy: So one of my concerns that I look at is if the...it seems to me that the initial preparation or processing of the fish, in this case, would be where the contamination source would take place and so I think we have to go back to the first part of that and make sure that we're doing all of the first things because if you don't have contamination at first, then you're not going to get it later on.
- Mr. Stokes: Sir?
- Member Hardy: Yes.
- Mr. Stokes: May I clarify? C-Bot is naturally occurring in about 60% of all fish in the waters wherever you harvest it from.
- Member Hardy: So it's there.
- Mr. Stokes: It's there.
- Member Hardy: We know it's there.
- Mr. Stokes: It's there. So I mean I understand that portion.
- Member Hardy: So...
- Mr. Stokes: I'm just saying when we go to the cooked version how we're handling it, and maintained all the waivers and the HACCP...I'm just saying I'd like to be able to say this is our procedure – I'd like to have the waiver for requirement for mandating HACCP. That's all.
- Member Barlow: And I agree.
- Member Hardy: And I think the other question that I have is when we talk about the time to serve after you're done your waiver, as it were, and the time

from the time you cook to the time you serve, it brings me to what I think is the obvious question...how fast do we tell people to eat their meal? I mean that...are we getting food poisoning because somebody's taking too long to eat.

Ms. Henderson: No sir, that's not what's happening.

Member Hardy: So it's only in that window of time, and if we can document by some processing authority that the process is safe, then we have the opportunity to do a waiver that's appropriate. And it seems to me that's what we want to do – have some process authority say, give their blessing as it were, that this is an appropriate thing to do. Thank you, Madam Chair.

Chair Giunchigliani: Donna?

Member Fairchild: Thank you, Madam Chair. May I bring up one point, too? If the fish is packaged this way and then cooked to the appropriate temperature, doesn't that cut off...

Ms. Henderson: Not the spores...it will actually shock the spores so that they would germinate.

Member Fairchild: So that's why that serve...

Ms. Henderson: That's what the concern is.

Member Fairchild: ...cook to serve time is critical.

Mr. Stokes: Well then once you shock the spores and they start to develop, you have to have a time period for them to develop the toxin.

Chair Giunchigliani: Mm-hmm.

Member Fairchild: And how long would that take?

(Unknown voice): Four hours.

Mr. Stokes: Well that's just it. You can look at anywhere from the least amount of time I've seen in very rare cases in C-Bot C I think it was like four hours for measurable to have an impact, up to ten days in some cases. And some different types can be up to twenty days, hermetically sealed. So I mean it just depends on what you're looking at, which species A, B, C or D is actually what affects the humans and there's three other species that affects others – there's actually seven different species that we know of right now that, or types I should be saying, for C-Bot.

Member Fairchild: Thank you.

Mr. Goode: Madam Chair, if I may?

- Chair Giunchigliani: Barbara? Barbara has a question. Go ahead.
- Member Ruscigno: Well, thank you, Madam Chair. Cooking has really taken on, like medicine, it's like cover your butt. But anyway, you have, I mean, research takes years and you have done this exact procedure for five years?
- Mr. Stokes: Yes ma'am.
- Member Ruscigno: Without any consequences?
- Mr. Stokes: No consequences. And we do not save...if we make it and someone cancels the order, it gets thrown in the trash...
- Member Ruscigno: OK.
- Mr. Stokes: ...it's not like you save, it's for immediate use. You take the fish raw, place it in the bag with your seasonings and spices, you vac-pack it, you drop it into the boiling water so it enhances all of the flavors into the fish, cut the bag open, and once the bag is cut open, C-Bot can't produce – it can only produce toxin in an anaerobic state.
- Member Ruscigno: OK. Right. Thank you.
- Chair Giunchigliani: Mr. Goode, did you have a comment?
- Mr. Goode: I do, thank you, Madam Chair. Although it sounds as though we're not agreeing, we certainly are. But what we're saying here is that Alex has already agreed to do the initial testing, and that's what we're asking him to do. But what he's asking for, and which isn't as clear as it can be in our regulation, is that he's asking for a waiver as opposed to having a complete HACCP plan.
- Chair Giunchigliani: So he's still giving you the plan of the test, but it's not...
- Mr. Goode: Yes.
- Chair Giunchigliani: ...the HACCP test and it doesn't say it that way...
- Mr. Goode: Correct.
- Chair Giunchigliani: ...so that's the clarification that you're asking for.
- Mr. Stokes: Yes, ma'am.
- Mr. Goode: Yes, and the language that Ms. Henderson brought forth, I thought, clarified that with the processing authority, given us written documentation in their opinion that the process is safe, then the waiver can be issued and he would not have to have a HACCP program.

Chair Giunchigliani: OK. And so, could you restate the suggested compromise language to clarify, because it still would require a plan to go to the authority, which would be you all, to say yes, you've measured the temperature and you did this, you did that and they could approve that. Is that a waiver, then or is that a variance, that's what I was trying to say.

(Whispered conversations)

Mr. Stokes: I want the option of not being mandated to have a HACCP program...

Chair Giunchigliani: But in lieu to perhaps, then to present a plan it would have to be...

Mr. Stokes: Right, operational plan.

Chair Giunchigliani: Gotcha.

Mr. Stokes: Operational procedure.

(Whispered conversations)

Member Jones: But again, it would be specific to prepare and immediately cook...

Mr. Stokes: Immediate service. I'm only talking for immediate service.

Member Jones: Right.

Mr. Stokes: You know, no type of storage...

Member Jones: Prepare and immediate cook and serve, something...

Mr. Stokes: Right.

Member Jones: ...another person who doesn't see it your way may want to cook and then store it.

Chair Giunchigliani: Correct.

Mr. Stokes: So it has to be for immediate service.

Chair Giunchigliani: OK.

(Whispered conversations)

Chair Giunchigliani: Immediate is defined, where did I find it...there's a...I believe...Steve, there's a definition, isn't there, of "immediate," but I didn't find it...it was throughout it...

Member Jones: From an FDA science stand-point, that would all occur within four hours, to prepare it, to cook it, to serve it. Quality of service would go faster than that.

Chair Giunchigliani: But in one different section it says that service of food shall not exceed, that's in six...

(Whispered conversations)

Ms. Henderson: To ensure that we are addressing everything that industry is asking concerning having a procedure which is reviewed by the processing authority, but may not include a HACCP evaluation and implementation, we would request that we could just table section C only of this and then come back with wording in thirty days. Would that be something that the Board would like to entertain?

Chair Giunchigliani: That would be reasonable, I don't think...that way we're doing it the right way. So you're comfortable, you're comfortable, and we're comfortable so I think that's...

Ms. Henderson: I'd rather not...

Chair Giunchigliani: Yeah, try to do it off the cuff...

Ms. Henderson: ...I want to make sure that it addresses all concerns, plus having the implication of having the processing authority, until the science is more established in this area.

Chair Giunchigliani: And then you had another comment.

Mr. Stokes: The other comments I'd like to have a caveat statement for appendices that they're guidelines in nature and not regulatory. I don't mind finding the guidelines, but defining a guideline is better. If you look at their guidelines, in several of them it says you must and you shall. So I don't want an inspector or someone down the line open up the appendix and say this is the law. So I just want to be able to stipulate...

Chair Giunchigliani: Regulation versus the appendices and the appendices are guidelines on how to implement and what to look for. They should not contain mandatory language is what...

Mr. Stokes: Correct.

Chair Giunchigliani: ...you're suggesting. OK.

Ms. Hahn: And throughout the document whenever we reference any of the appendices, in fact, we did add in that applicable section a statement saying similar to a guidance document is provided in Appendix C or whenever an appendix was referenced that guidance document is...and since Alex and I had the wording and we can definitely add that wording to the front of the document if we...

Chair Giunchigliani: Or just before you start your appendices you could put a caption that says "these are guidelines..."

- Ms. Hahn: Yes.
- Chair Giunchigliani: ...and just keep it simple.
- Mr. Stokes: And non-regulatory in nature. I just want that totally stipulated to where it doesn't migrate over the years.
- Chair Giunchigliani: OK.
- Ms. Hahn: We can do that.
- Chair Giunchigliani: Yeah, OK. Thank you, sir. Is there anything else?
- Mr. Stokes: One other thing. I hate to take up everyone's time, but I'm concerned that the point system that we maintain from many year's past...an "A" is ten points; a "B" is from eleven points to twenty points; a "C" is from twenty-one to forty points...we're going from a forty-seven page document currently to a hundred and eighty-four pages. Many, many things we address, and I think it's very, very strict and limited when you stay with a ten-point violation. You know, I don't know what the new inspection document's going to be as far as how many points each item is, what the criteria is, but when you put four times the information you've been found in violation of, and even though we're going to training sessions, I think that ten points is very, very strict.
- Ms. Henderson: May I comment on this, Madam Chair?
- Chair Giunchigliani: Mm-hmm.
- Ms. Henderson: Yes, our training officers have been very much involved in trying to develop an inspection report form that would be both good with the Decade software, but also take in these considerations in line. They have, I believe, shared some of the preliminary documents associated with an inspection report form to one of the members of the Board, and they have also taken a previous inspection reports and for the types of violations which one might see, they did a correlation between what the operator received on the existing health inspection report and what they would receive on the new inspection report form and they found that in every case it would benefit the operator, and that actually when it came to a grade point difference, it would either be the same or it would be a more advantageous grade. Certain violations which were much higher, the six and ten demerit violations, there will be no violation, if we go with this report form, that will exceed five demerits.
- Chair Giunchigliani: OK, is that part of what we're adopting today?
- Ms. Henderson: No, it is a separate document that is still under development and we are involving industry as part of that process, but we're still developing the document so that it would be conducive to using with the software. And in addition to that, more mirror this type of regulation where it is

more risk-based and as I said, the demerit values are going to be less on that form than it is on our current form.

Chair Giunchigliani: Then may I suggest, if there's not objection from the Board, that when you, that you make sure you're doing the industry and looking at how that compares to the new regulations to bring that back for a public hearing when that way, if there's additional changes or corrections. When this is adopted when's the effective date of it, this new regulation?

Ms. Henderson: We do anticipate with the training and so on that we would not be implementing this until about mid-year.

Chair Giunchigliani: OK, so because this still has to go to the State Board of Health, you can begin your training now but you don't have to sit in abeyance and wait until they do that, or do you have to wait until they do their adoption?

Ms. Hahn: We are already developing...

Chair Giunchigliani: OK, so you're anticipating...

Ms. Hahn: ...the procedures...

Ms. Henderson: We're working on that.

Ms. Hahn: ...it's easier to deal with the ones that might be changed, the few that might be changed, so we are already working on those documents.

Chair Giunchigliani: Alright, so then, I think you still have an opportunity to take a look at the point system, the demerit system and make sure that that is reflective of the new documentation, but not more cumbersome, and you may want to change it or not, and so that's we would do. So we'll still do that through a public hearing.

Mr. Stokes: We're just concerned from my standpoint in industry, Madam, that the point system, the downgrades, later on doesn't become an issue for revenue-generating...

Chair Giunchigliani: OK.

Mr. Stokes: ...I just read an article the other day where they started the article off that the health departments generates \$22 million a year in revenues and the state of, I mean New York City. The point is it should be public health and not generating revenue. So if you start your article off about the number of inspections they're doing, the findings they're having and all of a sudden you're talking about revenue, while I know things are tough, it's tough for us in industry, it's tough from a budget standpoint for public health, but I don't want the regulation to come to the point where you have two five-points and a light bulb out and all of a sudden you've got a downgrade. You know, let's be practical.

- Chair Giunchigliani: And that will be reflected, but I think staff, I've always felt, at least, this health district tends to do things based on what the public and the business folks need in a balanced manner and hopefully we can maintain that. I think that's probably indicative...we're not as, in spite all this, usually bureaucratic as some of the other larger states can be as far as trying to chase fees, so I think we've been pretty reasonable on that.
- Mr. Stokes: Thank you for your time.
- Chair Giunchigliani: Thank you very much. Is there anyone else...oh I'm sorry. Donna?
- Member Fairchild: Oh, thank you very much. Just a question on section 2-301.12 when it's talking about cleaning procedures for food handlers. I notice here that we are requesting fifteen seconds when all the supporting documentation I've been reading and science says you should wash for at least thirty seconds. Are we just going to sing "Happy Birthday" much quicker?
- Ms. Hahn: The FDA Food Code changed from thirty seconds down to twenty and now it's down to fifteen seconds.
- Member Fairchild: And that's the 2009?
- Ms. Hahn: Yes, that's the 2009 Food Code. And again what people find confusing is medical, you know hospital hand-washing as opposed to food handler hand-washing, whatever. So that's why the change down to fifteen seconds.
- Member Fairchild: I would think that, as much as all these concerns you brought up about food safety, that it's as imperative that the food is safe as it is in the medical profession. So I just wanted to see where the balance was.
- Ms. Henderson: Being a nurse for thirty years, I certainly agree. I like everyone to wash their hands properly and it doesn't matter how many seconds if they're not using friction and then really washing their hands properly and that's something that our inspection staff do look for in the food establishments, the simple rinse and run is not appropriate in food service any more than it is for the medical field.
- Chair Giunchigliani: And unfortunately with the use of the gels now people are under the false assumption that they...it's almost you need to get rid of those and focus on what really needs to be, because it's diverted the attention in my mind.
- Member Rusingno: Well I also know that the gels don't work necessarily.
- Chair Giunchigliani: The general public I don't think realizes that, Barbara. OK, is there anyone that wishes to testify in the public hearing? Seeing none, we'll close the public hearing. Let me offer a suggestion for a motion from the Board, is it adopt or approve...I guess adopt the regulation with

the following clarifications: we will set aside 3-502.13(c) for further discussion to bring back to the Board; we will clarify that appendices are guidelines and not regulatory in nature; and we will take clarification regarding the caterers and the sink location. Dr. Joe?

- Member Hardy: And then the adoption includes the mirroring language?
- Chair Giunchigliani: And the adoption includes the mirroring language.
- Member Fairchild: Move for approval.
- Chair Giunchigliani: OK, it's been moved for approval. Is there a second?
- Member Strickland: Second.
- Chair Giunchigliani: Seconded. All those in favor say "aye."
- Board members: Aye.
- Chair Giunchigliani: Opposed? Motion carries. Alright. Thank you very much. I know that two, maybe three years of work is...staff should be commended. Thank you for working with the industry.
- Ms. Hahn: My hair was brown when I first started.
- Chair Giunchigliani: That's my husband's story before marrying me. Thank you ladies, you did an excellent job.

A motion was made by Member Fairchild to adopt the regulations as presented with the following clarifications: 1) set aside chapter 3-502.13 for further discussion to bring back to the Board; 2) clarify that the appendices are guidelines and not regulatory in nature; 3) provide clarification regarding caterers and locations of hand-washing sinks; and 4) clarify that the adoption of the regulations includes mirroring language for the FDA Food Code; seconded by Member Strickland and was unanimously approved.

IV. REPORT / DISCUSSION / ACTION

2. Receive Report from Management on Employee Focus Group Sessions Concerning Cost-Savings / Cost Containment / Revenue-Generating Measures; Direction to Staff

Dr. Sands said this item was to brief the Board relative to the district's budget planning process, timelines going forward and to ask for the Board's support in working together to prepare the budget for the coming fiscal year.

Scott Weiss, director of administration shared a PowerPoint with the Board (**attachment #2**). As part of the FY11 budget process the Executive Team developed budget goals, which have been shared with staff:

- Meet all legal mandates
- Protect and maintain community safety nets (minimize and prevent damages)
- Preserve and protect the public health workforce
- Support both economic and human capital development

- Demonstrate fiscal responsibility (balanced budget)
- Ensure operational and political feasibility
- Leverage grand and alternative revenue sources when available
 - Require coordination with NSHD, CDC and local entities
 - Provide gain sharing opportunities

The district is facing a 20% reduction in general fund revenue from property taxes for FY11. We are anticipating an additional 10% reduction to the general funds revenue for FY12. FY13 and 14 will continue to reflect reductions to the general fund revenue based on property tax allocations, due to lowered property values, particularly commercial properties. The district hopes to maintain current grant revenues. The current Collective Bargaining Agreement (CBA) expires June 30, 2011 and the tentative budget will maintain current wages and benefits as negotiated, including a 3% COLA increase effective July 1, 2010 and a 2.5% step increase. All general expenses will increase 3% except where more defined numbers can be estimated, such as utilities.

Divisions were requested to provide a budget plan with a 20% reduction to general fund allocations, which is due by January 29th. All budgeting information was shared with labor representatives, the Joint Labor/Management Committee. Brainstorming sessions were conducted with the Executive Team, Senior Management Team and all staff at each public health center to solicit cost saving and revenue-generating ideas. All suggestions are currently under review for further analysis and utilization over the next several years.

The timeline for the budget process was outlined as follows:

- Division budgets due – January 29
- Finance staff to integrate budgets – February 5
- Division review meetings – February 8-28
- If necessary, notify Labor of request to open negotiations of current CBA
- Brief Board members on tentative budget – March 1-24
- Provide tentative budget to Board March 25, 2010; due to County before April 1, 2010 per NRS
- Continue to work with Board, Labor and Stakeholders
- Receive updated County allocation after board of Equalization completes process
- Brief Board members on revised budget – May 1-26
- Provide Final Budget to Board May 27, 2010; due to County before June 1, 2010 per NRS

All staff members were invited to participate in brainstorming sessions to solicit input for cost-savings, cost containment and revenue-generating measures. All suggestions were compiled into a spreadsheet and grouped in like categories. Mr. Weiss acknowledged Shelli Clark for her efforts in compiling and tabulating the suggestion data into a working document, which included over 600 individual suggestions. A “top 10” list resulted from the number of times an idea came forward, which include:

- Consolidate Public Health Centers (PHCs) and evaluate leased facilities
 - Current leases renegotiated for East Las Vegas and Spring Valley PHC; staff is also reviewing the North Las Vegas PHC lease, which expires February 28, 2010
- Implement a 4/10 work schedule *
 - Currently reviewing operational and financial analysis of implementation
- Implement Voluntary Separation Program *

- Implement new fees
- Institute mandatory furloughs *
- Evaluate distribution of district cell phones
 - Staff is currently reviewing the number of cell phones in use; many phones were terminated in the last year, and more phones will be terminated this year
- Institute a “paperless” policy
 - Staff is currently finding ways to eliminate paper use, such as with the elimination of printed Board books; new copiers are in place for printing versus desk-top printers
- Change payment structure for fees / services
- Allow telecommuting where feasible
 - Currently reviewing operational and financial analysis of implementation
- Encourage payment for services
 - Encourage clients to provide some payment if possible; review credit card acceptance policy

(Items marked with an asterisk (*) require negotiation with the union as they are part of the CBA.)

SEIU is putting together employee sessions as well to solicit input from membership. Staff will incorporate data received from the SEIU meetings into the information previously received for further analysis and review, which will be shared with the Board.

Al Martinez, president of SEIU Local 1107. Mr. Martinez said there was some confusion regarding the employee focus groups versus the collective bargaining focus groups. Meetings will be scheduled and resulting information will be provided to the Board.

In reference to the suggestion to implement new fees, Dr. Sands said that all suggestions regarding new fees were lumped into one main heading – there were numerous suggestions for specific types of fees which could be assessed. There were three common themes: raise fees, institute new fees where appropriate, and find ways to encourage clients to pay for services. Employees felt strongly that not all services should be “given away.” Dr. Sands said we need to remember the health district’s goal and how the service is funded – some grants are structured in such a way that we cannot charge for the service (such as family planning).

Chair Giunchigliani asked for the following:

- A list of all grants received by SNHD
- The amount of grant revenue coming to SNHD
- Any matches required of grants
- If outside contractors implement portions of the grant; if so the dollar amount provided and the deliverables/performance standards
- A list of where all fees are used

Member Fairchild and Mr. Weiss both noted that the grant information is included in the monthly Board financial reports. Chair Giunchigliani noted that there may be instances where we could have charged for services and have not done so. There also may be instances where fees have not been increased and not kept pace with the actual cost of service delivery. She expressed concern about “across-the-board” cuts – she feels that some services should be protected and that other areas may be open for further review.

Member Boutin referenced possible increases to emergency medical services fees and offset some expenses to the individual jurisdictions. Mr. Weiss said this information has not come forward for discussion at this time. Per NRS, the health district provides oversight for emergency medical services, including licensure and certification, as well as oversight of training. Currently \$652,000 from the general fund is allocated for this expense, out of the program's \$750,000 budget – there is only \$100,000 of fee revenue coming in currently to fund these services. Over 3% of the general fund allocation is being utilized to fund these services – fees have not kept up with the cost of administering the program. There will be an agenda item at the next Board of Health meeting for discussion, including NRS citations.

Member Boutin noted that we need to review the scope of service delivery, as the Board is reluctant to cut services. Chair Giunchigliani referenced the preparedness grant and the possibility of providing vaccinations in the schools, as a venue for combining community health nursing and public school nurses to close the gap and increase accessibility of service without draining general funds.

3. Appointment of Southern Nevada District Board of Health Committee to Solicit Input from Employees, Management and the Community on the Impact of Potential Budget Cuts and Ways to Improve Efficiencies

Chair Giunchigliani said that some Board members are seeking to become more engaged as we face additional cost containment issues. This would allow Board members to participate in a more in-depth manner and better understand potential budget cuts / savings. She noted that the more transparency there is the better; however she did not want a large committee for this project and recommended a group of no more than seven participants. This group would be an opportunity for Board members to better understand the budget and service delivery to better educate the community as to what the health district does and how to better provide service and opportunities for shared services.

Member Boutin suggested having PIO do a media announcement for a “call to arms” and seek input from the business community and the public, similar to the committee established at the county. As this would be a Board-appointed committee, all meetings would be subject to Open Meeting Law.

Chair Giunchigliani suggested that interested Board members could sit in on the focus group meetings and bring information back to the Board for further discussion and possible action. She suggested that informal meetings be held and Board members could attend as their schedules allow. Dr. Sands said that involvement of the Board is critical as the budget process continues to unfold and their input is vital.

Mr. Smith noted his concern about Open Meeting Law and meeting notification – the discussion was now veering from the agenda item. He referenced a situation with the Clark County School District Board of Trustees and appointment of a committee where an Open Meeting Law violation is under review.

Mr. Weiss said that all future focus group meeting schedules will be provided to the Board. All information solicited from SEIU will be combined with the existing focus group data for full evaluation by management and the Board. Chair Giunchigliani noted as an elected official she would like to be more involved in the process versus reacting to the process – she would like to see the Board more involved in the brainstorming process. She further stated she would like to be more involved as management reflects on potential cuts as the Board will make the final decision.

Mr. Weiss will continue to update the Board relative to budget issues and extend the invitation to attend focus group meetings to be more involved in the process. Chair Giunchigliani suggested a public briefing before any Board action occurs so the public can provide input and comment as well.

Member Fairchild suggested that Mr. Weiss provide all information to the Board as requested by Chair Giunchigliani and Board members could then respond individually with recommendations for efficiencies, cuts, and provide individual brainstorming to management. She suggested that Mrs. Clark create a similar list for Board member suggestions. This would allow for individual input and not be subject to Open Meeting Law.

Chair Giunchigliani wants to ensure that the Board is part of the process, particularly during these very difficult economic times. Chair Giunchigliani recommended the following:

- Provide schedule of focus group meetings to Board
- Provide all grant and fee information to Board as requested in above item
- Board respond individually with recommendations for efficiencies, cuts and provide individual brainstorming to management
- Mrs. Clark will compile data and develop list of ideas for Board review

Member Fairchild and Mr. Weiss noted that all grant information is provided in the monthly Board reports under financial information. Mr. Smith again noted his concern about Board members attending meetings and providing input, with the potential of a quorum attending. His recommendation is that a committee is formally appointed to solicit information; however he left it to the Board's discretion. Chair Giunchigliani said she preferred to move forward with her recommendation and consider Mr. Smith's recommendation as an alternative if needed.

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.

Chair Giunchigliani asked if anyone wished to address the Board.

Al Martinez, president of SEIU Local 1107 addressed the Board. He noted that the services provided by the health district are very important. It is the responsibility of management and Board members to ensure that resources are used in the most efficient manner. SEIU and labor want to work collaboratively to identify where cost containment measures can be implemented and noted that front line employees are the best source for recommendations. He expressed concern about the suggestions provided to the Board members. He stated that the district's financial outlook is solid and it is premature to consider lay-offs and reduction of wages. He recommended that the district's financial reserves be used for any budget shortfalls. He asked the Board not to be hasty in making decisions, but to partner with SEIU and their use of national resources and relationships to continue providing vital services.

Member Fairchild asked Mr. Weiss to provide current budget information to the Board, including the last six months as well as the forecast for the next six months – revenues, expenditures and fund balances. She noted that numbers from previous years' budgets are not as concise as is needed to know at present.

Chair Giunchigliani asked Mr. Martinez to leave his written comments to become part of the official record of the Board meeting (**attachment #3**).

Chair Giunchigliani asked if anyone else wished to address the Board. Seeing none, she closed the Public Comment portion of the meeting.

As another point of reference the health district currently accepts credit card payments; acceptance of debit cards will be implemented next week. Chair Giunchigliani asked that information regarding areas where fees structures have not been created but could be sources of revenue be provided to the Board.

VI. HEALTH OFFICER & STAFF REPORTS

Dr. Sands noted that this was the first entirely paperless Board meeting and recognized Shelli Clark for her efforts in creating this process, in conjunction with the IT staff. He expressed his appreciation for the website and the professional look of the information.

Members Christensen and Barlow will be traveling to Carson City with Scott and Dr. Sands to discuss the Great Basin Public Health Leadership Institute project as well as participate in a “hot wash” of the state-wide response to the H1N1 pandemic, and to participate in a strategic planning session with all local health officers.

Last month the hepatitis C outbreak investigation report was completed and made available to the general public – it is also posted on the district’s website. Dr. Sands recognized Brian Labus, epidemiology, nursing and lab staff for their efforts in this project. He noted that Mr. Labus spent a great deal of time on the report to ensure it was coherent and accurately reflected the experiences of the investigation process. Chair Giunchigliani noted her appreciation for Mr. Labus’ efforts as well.

Chemotherapy Medication Donation Program: Christina Madison, Pharm.D. – Pharmacist

Dr. Sands noted that the Board had asked for information about the chemotherapy medication donation program, as well as medication recycling. Chair Giunchigliani said she requested an agenda item regarding more public outreach for unused medication and collection.

Dr. Christina Madison shared two handouts with the Board relative to Assembly Bill 213 and the cancer drug donation program (**attachment #4**). The Nevada State Board of Pharmacy is responsible for the regulation of the cancer drug donation program. Though the legislation was passed in the last session and effective July 1, 2009, the regulations have not been approved to date. The program is on hiatus and patients will need to register with the Board of Pharmacy before the program can be fully implemented. It is a potential option for cancer patients with no pay source for chemotherapy. The information will be shared electronically with the Board as well.

H1N1 Influenza Vaccination Response and Strategy Update: Bonnie Sorenson – Director of Clinics & Nursing Services

Dr. Sands invited Bonnie Sorenson to update the Board on H1N1 activities and various partnership opportunities to better outreach priority populations. He noted that there is little flu activity in southern Nevada, or the rest of the country at present. Staff continues to do surveillance for other potential flu strain peaks.

Mrs. Sorenson said that vaccine supplies are plentiful, little flu activity and interest in vaccination is waning. Staff is providing outreach at different venues to provide vaccine. Strike teams will be going to all schools in the Clark County School District to provide vaccine in the schools. Staff is

working with the day care centers. With the approval of the contract with Social Service staff will be able to provide vaccine at the Fertitta Center. Staff is working with Dr. Noah Kohn and the Communities in Schools project to provide H1N1 vaccination at the high-risk schools. There are numerous health fairs on the agenda where staff will provide outreach and vaccine. Though flu incidence is low at present, getting vaccinated now will provide protection to the virus in the fall.

Staff is also providing DTaP vaccine in the middle schools, as required by Nevada law for students entering the seventh grade.

VII. INFORMATIONAL ITEMS

DULY NOTED

A. Chief Health Officer and Administration:

1. Monthly Activity Report, Mid-December 2009 – Mid-January 2010
 - a. Correspondence from Staff and Clients Concerning the H1N1 Vaccination Response Efforts
 - b. Letter of Appreciation from Senator Harry Reid to Dr. Lawrence Sands
2. Financial Data: Revenue and Expenditure Report for General Fund, Capital Reserve Fund and Public Health Laboratory Fund for the Month of December 2009
 - a. Grant and Agreement Tracking Report, as of January 19, 2010
3. Public Information Monthly Report, Mid-December 2009 – Mid-January 2010
 - a. Letter of Appreciation from UMC to Susan Eiselt, administrative secretary and Mary Ellen Britt, regional trauma coordinator

B. Community Health:

1. Monthly Activity Report, December 2009
 - a. Health Care Providers Sufficient Supply of H1N1 Notice
 - b. Non-Safety Related Voluntary Recall of Certain Lots of Sanofi Pasteur H1N1 Pediatric Vaccine in Pre-filled Syringes
 - c. Medimmune Monovalent 2009-H1N1 Influenza Nasal Spray Vaccine Shortened Shelf Life of Certain Lots
 - d. Southern Nevada Influenza Surveillance Report #7
 - e. Southern Nevada Influenza Surveillance Report #8
 - f. Southern Nevada Influenza Surveillance Report #9
 - g. Southern Nevada Influenza Surveillance Report #10
 - h. Southern Nevada Influenza Surveillance Report #11
 - i. December 2009 Disease Statistics
 - j. 2009 Fourth Quarter Disease Statistics Report

C. Environmental Health:

1. Monthly Activity Report, December 2009
 - a. 2009 ISDS Quarterly Summary
 - b. Email from Lindsay Sinn Recognizing Jim Sladky, environmental health specialist II

D. Clinics and Nursing:

1. Monthly Activity Report, December 2009
 - a. In-service calendar
 - b. Partnership Award Presented to Bonnie Sorenson
 - c. Letters of Appreciation
 - d. Article – First Case of Fearsome TB Strain Found in US
 - e. Technical Bulletin – Testing for TB Disease and Latent Infection

VIII. ADJOURNMENT

There being no further business to come before the Board, Chair Giunchigliani adjourned the meeting at 11:39 a.m.

SUBMITTED FOR BOARD APPROVAL

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

/src

attachments