



MINUTES

Southern Nevada District Board of Health Meeting

625 Shadow Lane
Las Vegas, Nevada 89106
Clemens Room

Thursday, April 22, 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
Stavros Anthony
Ricki Barlow
Kathleen Boutin
Jim Christensen, MD
Susan Crowley
Robert Eliason
Donna Fairchild
Joseph Hardy, MD
Lawrence Weekly

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

Absent:

Mary Jo Mattocks, RN

At-Large Member, Registered Nurse

Executive Secretary:

Lawrence Sands, DO, MPH

Legal Counsel:

Stephen F. Smith, Esq.

Other SNHD Board of Health Members/Alternates Present:

Jimmy Vigilante

Alternate At-Large Member, Regulated Business/Industry

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

Frank Nemeec, MD
John Onyema, MD
Steven Ross
Barbara Ruscigno, RN
Anita Wood

Alternate At-Large Member, Physician
Alternate At-Large Member, Physician
Councilman, Las Vegas Alternate
Alternate At-Large Member, Registered Nurse
Councilwoman, North Las Vegas Alternate

Staff: Scott Weiss; Angus MacEachern; Glenn Savage; Jennifer Sizemore; Jo Alexander; Stephanie Bethel; Jerry Boyd; Dennis Campbell; Rory Chetelat; Alice Costello; Joanne Engler; Arta Faraday; Jeff Good; Steve Goode; Mary Ellen Harrell; Rose Henderson; Valerie Hirata; Angela Jones; David Kuykendall; Brian Labus; Eddie Larsen; Christina Madison; Ann Markle; Linda McCloskey; Patricia O'Rourke-Langston; Gwen Osburn; Mars Patricio; Walter Ross; Patricia Rowley; Rosanna Silva-Minnich; Michelle Sotero; Robert Urzi; Leo Vega; Jorge Viote; Deb Williams; Ed Wynder; Valery Klaric and Shelli Clark, recording secretary

ATTENDANCE:

<u>NAME</u>	<u>REPRESENTING</u>
Kim Amato	Baby's Bounty
Mark Backus	City of Henderson
Petya Balova	LEA Engineering
Jim Barger	Pacific Custom Pools
Brian Feigenbaum	Executive Vice President, Hard Rock Hotel
Rob Garcia	NVCCU
Tom Halleman	PRT
Scott Hansen	Boulder City
Warren Hardy	SA Recycling/Nevada Pic-A-Part
Roosevelt Howard	Hard Rock Hotel
Melissa Jackowski	PRT
Mason Joseph	JACO Environmental
Sally Jost	CCSD
Shohreh Marashi	USN Pharmacy Student
Robin Maxie	PRT
Stan McCloskey	Baby's Bounty
Minh Nguyen	USN Pharmacy Student
Dominic Phelps	PRT
Richard Ponce	PRT
Kim Rakou	CCSD
Tarra Randazzo	PRT
Charity Stevens	Phoenix Recycling Technologies
Alex Stokes, Jr.	Wynn Las Vegas
Diane Taylor	CCSD
Chris Ware	City of Las Vegas
Kim Woodel	CCSD

Chair Giunchigliani noted a quorum was present at the start of the meeting with Members Anthony, Barlow, Boutin, Crowley, Eliason, Fairchild, Hardy, Jones and Strickland seated.

RECOGNITIONS:

- **Public Health Hero Awards**

Since 2000, the Southern Nevada Health District has honored organizations and individuals whose contributions positively affect the health and well being of our community. As the public health agency for Southern Nevada, our vision of “Healthy People in a Healthy Southern Nevada” reaches into all areas of our community. To achieve our goals, we rely on our multi-disciplinary staff of public health professionals and their ability to work collaboratively with other health care professionals in our community. Public health works best when we are able to team up with these professionals to use their expertise and experience to develop and deliver programs and services directed at protecting and improving the health, environment and well-being of our community. These partnerships are vital to helping us achieve our mission and because of that we want to single out two very special people today for recognition as true public health heroes.

Each year, staff nominates outstanding Public Health Hero nominations. Dr. Sands announced the recipients of the 2010 Southern Nevada Health District Public Health Hero Awards:

Kim Amato, Founder – Baby’s Bounty

Kim Amato, the founder of Baby’s Bounty, received her nomination from nursing division staff. Baby’s Bounty is a non-profit agency founded in 2008 that provides essential necessities to babies born into at-risk families. Recipients include teenage mothers, the homeless and people living in poverty. Every infant receives a collection of new and gently used baby clothing, receiving blankets, bottles and other items, like strollers and car seats. Since its inception, Baby’s Bounty has assisted more than 375 families.

Through collaboration with social service agencies, hospitals, homeless shelters, safe havens, schools and family court, new mothers at-risk are identified to receive assistance. Baby’s Bounty works with more than 50 social service providers in the Clark County area including the Department of Welfare and Supportive Services, UMC, Nevada Partnership for the Homeless, WIC (Women, Infants, and Children), Catholic Charities and Shade Tree, among others. Recently, Baby’s Bounty began a program with the Clark County Coroner’s office to address Clark County infant mortality rates. A new program called “Good Night, Sleep Tight” allows the organization to collect new or gently used ‘pack and plays’ and distribute them to families to ensure newborns have a safe sleep environment.

Ms. Amato thanked the district for the nomination and staff for wearing their t-shirts. Chair Giunchigliani, on behalf of the Board, expressed appreciation for the organization’s efforts. Ms. Amato was also presented with flowers to express appreciation for her efforts in improving the county’s immunization rate.

Diana Taylor, RN – Clark County School District

Diana Taylor was nominated by the health district’s epidemiology department in recognition of her many years working in close partnership with the health district, as well as a supporter of local public health efforts. In 2009, Ms. Taylor worked directly with the health district in response to the newly identified 2009 H1N1 influenza virus and subsequent outbreak in the community. During the spring and summer, she assisted the health district in the development of guidelines to assist with the response to identified cases in schoolchildren and outbreaks in schools across the district, especially an outbreak at a local elementary school.

She attended press conferences along with health district staff in response to reported illnesses and she worked closely with our staff to lead a project to report school absenteeism data as part of the health district’s response to identify clusters of 2009 H1N1 influenza within the county’s school-age population. She continues to work with the health district in response to many public

health issues. In the past several years she has assisted with the development of training programs regarding MRSA, she served as the point of contact in several gastrointestinal outbreaks as well as a chickenpox outbreak, and she coordinated the reporting of child height and weight data to allow the health district to begin to evaluate childhood obesity in Clark County. Ms. Taylor has also been instrumental in assisting the health district with implementation of a new immunization mandate for children entering 7th grade and she continues to work with our immunization program to ensure that incoming 7th graders meet the requirement. Dr. Sands thanked Ms. Taylor for being the “point of contact” and helping public health efforts between the school district and the health district to be seamless.

(Member Weekly arrived and was seated at 8:42am)

Ms. Taylor thanked staff for the nomination and the honor of being selected. She noted what a privilege it is to work with the health district – all departments are professional and excellent. Nursing staff expressed their appreciation to Ms. Taylor for presenting her with flowers.

Chair Giunchigliani thanked each of the public health heroes for their efforts in promoting public health on behalf of the Board.

Dr. Sands extended his congratulations to the public health heroes and thanked them on behalf of the health district for their continued dedication to the betterment of our community.

This year’s theme for public health week was “A Healthier America: One Community at a Time,” and it is the time of year that district leadership also thanks the staff of public health professionals and recognizes their efforts in delivering public health services to Southern Nevadans. This year’s theme complements the district’s vision of “healthy people in a healthy Southern Nevada.” This year’s public health heroes are doing their part to help us make the district’s vision a reality and staff works every day to accomplish the same. This year, PIO staff developed a video called “The Faces of Public Health” which highlights several health district positions and how they impact public health. The video also includes the many faces of public health among our own staff including clerks, inspectors, nurses, and support staff each of whom plays a role in making the vision of public health a reality for our community. (The video was shown to Board members and attendees.) Dr. Sands noted the great team at the health district and reiterated a quote from a staff member saying “you don’t need superpowers to change the world, you just need to work in public health.” Dr. Sands thanked PIO staff for their efforts in putting together the video. Chair Giunchigliani also expressed her appreciation to Ms. Sizemore and her staff.

- **Great Basin Public Health Leadership Institute Graduates 2010**

Dr. Sands introduced and congratulated the sixth cohort of Great Basin Public Health Leadership Institute graduates. The team worked together with representatives from Carson City Health & Human Services and the Nevada State Health Division focused on strategic planning for the public health system in Nevada. As Dr. Christensen had not arrived, the team opted to hold their presentation to the Health Officer & Staff Reports section of the agenda.

Ricki Barlow – Board of Health
Jim Christensen, MD – Board of Health
Lawrence Sands, DO, MPH – Chief Health Officer
Scott Weiss – Administration

- **Great Basin Public Health Leadership Institute Scholars 2011**

Dr. Sands also introduced the Great Basin Public Health 2011 scholars. The seventh cohort will include:

Rose Henderson – Environmental Health
Eddie Larsen – Administration
Glenn Savage – Environmental Health
Michelle Sotero – Administration
Robert Urzi – Environmental Health

Dr. Sands welcomed the new scholars and offered assistance and advice when needed. The scholars will present their project to the Board next April.

I. CONSENT AGENDA

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

1. **Approve Minutes / Board of Health Meeting:** 3/25/2010
2. **Approve Payroll / Overtime for Periods:** 3/06/10 – 3/19/10 & 3/20/10 – 4/02/10
3. **Approve Voluntary Furlough Program Reports for Periods:** 10/31/09 – 11/13/09 & 11/14/09 – 11/27/09
4. **Approve Accounts Payable Registers:** #1221: 3/05/10 – 3/11/10; #1222: 3/12/10 – 3/17/10; #1223: 3/18/10 – 3/25/10; #1224: 3/26/10 – 4/01/10
5. **Petition #10-10:** Approval of Interlocal Contract with Nevada Department of Health & Human Services for Child Care health Consultation Services

Chair Giunchigliani asked if there were any discussion on the items brought forward on the Consent Agenda. Seeing no further discussion, she called for a motion to approve the Consent Agenda as presented.

A motion was made by Member Eliason to approve the Consent Agenda as presented; seconded by Member Crowley and was unanimously approved.

II. PUBLIC HEARING / ACTION

1. **Variance Request** to Operate a Public Bathing Place not in Compliance with Nevada Administrative Code (NAC) 444.136, Located at 4455 Paradise Road, Las Vegas, NV 89109 (APN: 162-28-101-001) for Health Permits 12625-#HV-01 and 12625-#HV-08. **Petitioner:** Brian Feigenbaum, Executive Vice President and Owner Representative H R H H Hotel Casino LLC

Chair Giunchigliani declared the public hearing open.

Angela Jones, pool plan review supervisor and Valerie Hirata, environmental health specialist II presented this item. Also present were Brian Feigenbaum, Jim Barger and Roosevelt Howard, representing Hard Rock Hotel Casino.

The variance being sought is to operate public bathing places not in compliance with Nevada Administrative Code (NAC) 444.463.2(e) which states "...facilities, such as large resort hotels, which have continuous, 24-hour-a-day security of the pool area may be exempt from the requirements of this [barrier] section." HRHH is trying to obtain a variance for NAC 444.136.3, which states "courtyard-type concepts in which gates or doors open directly into a pool enclosure from a dwelling unit or hotel or motel room are not permitted." An additional variance is sought for NAC 444.136.8 which states "...where existing construction prohibits compliance with the requirements of this section, the owner shall file with the health authority an operation procedure."

The petitioner states that the requested variances are in line with what the property operations for the past fourteen years. The property has operated the pool area under a security plan in compliance with 444.136.7 and 444.136.8 for the entire duration of operation. Guests have been allowed supervised access with no problem. The petitioner contends the variances have already been adopted and put into operation under the security plan at the Hard Rock with great success and no documented issues. The property has been open under these conditions since the installation of the first pool complex in 1997. The Festival Hall doors have been open into the pool expansion as an emergency staging area. The new pool area has also been designated an egress area and safe harbor by Clark County Building and Safety.

Staff's opinion is that these circumstances do not satisfy the requirements for a variance and do not recommend approval of the variance due to the following justifications:

1. Courtyard Style Prohibition – NAC 444.136.3
 - a. Historically SNHD has not allowed the construction of a courtyard style pool enclosure, in which individual guest rooms open directly on to the pool deck, without an intervening barrier;
 - b. Permitted establishments in Clark County deemed non-compliant have been required to install barriers to meet requirements of the regulations. Examples were cited at the Casablanca, Rivera and Green Valley Ranch.
2. 24-hour Security Explanation – NAC 444.136.7
 - a. Historically courtyard style barriers were not included in the interpretation of NAC 444.136.7 and NAC 444.463.2(e) since courtyard style barriers are specifically prohibited under NAC 444.136.3. Resort hotels which fully surround a pool facility, and which have doors and/or gates that enter onto the deck from the hotel common areas, may submit security plans for approval. These plans specify how access to the pool deck will be controlled and monitored 24 hours per day. The health authority will approve or disapprove such plans, as safety concerns dictate.
3. Existing Construction – NAC 444.136.8
 - a. NAC 444.136.8 pertains to existing construction, such as a change of ownership.
 - b. The petitioner is requesting variances on new construction.
 - c. The petitioner modified the plans for aesthetic reasons without health authority approval.
 - d. The petitioner has the ability to provide compliant barriers.
4. Previous Variance Requests
 - a. The petitioner received variances in the past for the following:
 - 1) October 24, 1994 – Sand beaches
 - 2) August 27, 2009 – Sand Beach, Gaming Spa and Dish Pool

- b. These variances did not grant permission to operate as a courtyard style pool enclosure
5. Health Authority Approved Security Plans
 - a. The health authority approves or disapproves a plan that specifies how access to the pool deck will be controlled and monitored 24 hours per day.
 - b. The petitioner currently has not submitted a common access security plan or lifeguard plan.
 - c. The other resorts identified by the petitioner in this variance request have approved security plans by SNHD. These facilities do not have hotel rooms that open directly onto the deck, providing a courtyard style pool enclosure.
6. Health and Safety Issues
 - a. This requirement establishes a layer of protection for guests against the potential for drowning and near drowning in commercial swimming pools by limiting or delaying their access to swimming pools and spas.
 - b. The barrier is the foremost deterrent to unauthorized access to the swimming pool or spa and to prevent potential accidental drowning, both at times when a pool or spa is in use, and at times when it is not in use.

Ms. Jones noted that the facility anticipates the operational plan would be accepted and have spent over \$500,000 on security camera systems, and is committed to live security. To install barriers would require an additional \$175,000.

If the variance is granted, staff recommends the following conditions be included as requirements of this variance:

1. The petitioner agrees to provide the health authority with the proposed operational plan for review, verification and approval. Verification of the plan will include a site visit to inspect all components, e.g. lighting, security, cameras, etc.;
2. The petitioner agrees to any additional modification of their operational plan and/or facility, as determined by the health authority, to prevent public health and safety issues and meet the requirements of NAC 444;
3. The petitioner agrees to maintain all components of the operational plan, as approved by the health authority;
4. The petitioner agrees to operate facility as approved by the health authority. Any deviation from the approved plan will require approval from the health authority;

(Member Christensen arrived and was seated at 9:00am)

5. The petitioner agrees to random unannounced surveys to test the proposed operational plan;
6. The petitioner agrees the North and South Tower room locks and doors (childproof double latches and self-closing doors) are included as a component of the routine inspection for these bodies of water. These rooms will be inspected to ensure compliance with the operational plan;
7. The petitioner agrees any changes to the North and South Tower room locks and doors (childproof double latches and self-closing doors) will require approval of the health authority;
8. The petitioner agrees to provide a security plan for the access to the pool facility from the common areas;
9. The petitioner agrees to maintain security records for one year and provide the health authority access to these records;

10. The petitioner agrees to provide a lifeguard plan for these bodies of water. The facility will maintain the adequate number of lifeguards, as approved by the health authority;
11. Failure of the petitioner to:
 - Provide and maintain components
 - Agree to modification of plans or facilities
 - Provide required documents
 - Operate facility according to approved plans
 - Provide access to facilities or documents
 - Seek and receive approval from the health authority as requiredwill result in the voiding of the variance and the installation of an approved barrier, as per NAC 444.136. Applicable fees, submittals and approvals will be required for implementation of the petitioner's plan.
12. Failure of the petitioner to prevent public health and safety issues, as determined by the health authority, will result in the voiding of this variance;
13. This variance is automatically terminated without further notice upon the closing of any sale transaction involving the subject property, or upon petitioner leasing or assigning operation of these public bathing spas to any other person or entity.

Brian Feigenbaum noted the pool has been in operation in this manner for fourteen years – the facility ‘pushes the edge’ and does it right. The new pool facility was built above and beyond the district’s requirements. He cited the example of the required turn-over rate of six hours and the new pool will do this in 90 minutes. He noted that safety of the public is most important and the facility’s reputation is at stake. Hard Rock wants to be the best in Las Vegas and prove that they can make the variance work. He noted that nothing can go wrong in their operation and it must be perfect each time. The history at Hard Rock has been good – they want to continue to go above and beyond.

Roosevelt Howard, head of security at Hard Rock, noted that a great deal of time is spent training security staff to protect both employees and guests. The entire department will be responsible for the pool, not just the security officers. Camera systems are in place and any employees walking through the area will communicate with security if someone is seen in the area. It will be a Hard Rock property effort to keep the area safe. There will be two security officers on each side of the pool, in addition to the officer patrol, K-9 rounds and a bike officer are all noted in the security plan.

The facility continues to host a reality TV show, which caters to the young crowd and college students. Staff undergoes intensive training including drug awareness, CPR, first-aid, security plans for emergency situations, policies and procedures, and United States best practices are reviewed for large crowds. The only incidents have dealt with heat-related illness and those stemming from “typical weekend behavior” in Las Vegas.

Mr. Feigenbaum noted that the Hard Rock would like to serve as a model as they are of the opinion they have the best operations – they would like to see other properties measured by their successes.

Member Jones expressed concern about families staying in the villas and children entering the pool area unsupervised in the early morning hours. James Barger, contractor, stated that the doors have double locks with two handles, which are difficult for even adults to open, making it very difficult to go through the doors. There are currently sixty-nine cameras on site with the capacity for thirty additional camera. Current variances are working well and he invited Board members to visit the facility. Mr. Barger reported that he was unable to take his family and friends into the pool area one evening as they were not registered guests and security was not familiar with his guests.

Member Jones asked about the feasibility of installing some sort of protective barrier during construction. Mr. Barger said the villas are special units and installation of fencing would not be aesthetic and would block the view of the Strip. The villas are for high rollers, not for rent, and the guests enjoy that unobstructed view of the Strip.

Member Strickland noted the petitioners are stressing the issue of aesthetics, whereas the Board is stressing health and safety. She asserted that the focus should be on safety versus having something that is aesthetically pleasing to guests. She said the Board would set precedent if this variance is approved – there are purposes behind why these barriers are in place.

Mr. Barger said that almost every resort in town has doors that open directly to the pool area. Gates are not the most effective barrier, as they can be propped open or broken. He feels that live people monitoring the areas are the best form of protection, particularly when large numbers of people are present. He feels that seven security officers offer a great deal of protection and surveillance. During certain events there can be as many as sixty-four officers monitoring the area.

Member Strickland said she hopes that with all the security cameras and officers on site there would be no broken or propped-open gates. She noted the Board is make findings as to whether or not regulatory requirements will be financially detrimental to the petitioner and cited the quote of \$175,000 to install the proper protective barriers. She asked to clarify the time parameters involved and if operations would be impacted during installation.

Mr. Barger said the rooms would still be in use. Barriers could be installed and guests could occupy the rooms during the installation. He said gates would have card access or some similar security measure and can be done with no room closure.

Member Strickland summarized, from a detrimental standpoint to be consistent with NRS 439.240 it comes down to \$175,000 and an aesthetic issue. Mr. Barger agreed with this statement.

Member Hardy noted his concern, as a physician, about the treatment of drownings and near-drownings. As a grandfather he experienced one of his own grandchild propping open a pool gate. He understands there is no enclosure that a child cannot figure out. He expressed his concern about any type of enclosure and noted there is no substitute for live people, no matter what protections are in place. He said the life of a child, or care for a child who suffered near-drowning, is much more than \$175,000.

Mr. Feigenbaum said the argument is more about active versus passive security, and the facility believes active security is the most important and best deterrent. Member Hardy asked how many people are on duty at 3:00am, as it was previously stated there are seven security officers present.

Mr. Barger referred to page 39 of the variance application and a map of the area. Each red dot depicts a security officer and the area for which he is responsible. There is also a roaming patrol office with a canine. The VIP suite will have a locked gate at the access point to the Rehab Area.

Member Boutin noted the villas at Green Valley Ranch have shrubbery blocking access to the pool enclosure from the villas, making it impossible to get through. She asked if the facility had entertained the idea of not having access to the pool enclosure from the villas. Mr. Feigenbaum said one benefit of the villas is having immediate access the pool. He estimated guests would need to walk anywhere between one-quarter and one-half mile to get to the pool without immediate access from the villa.

Member Anthony noted that on a nice evening the door to the pool enclosure could be open, and at 3:00am a child or inebriated adult could venture to the pool area and potentially drown. He asked if the facility would be in the position in every case to stop that person from falling in the pool – he wanted to ensure this type of incident would not occur at any time during the day or not. Mr. Howard said the facility will do everything possible to prevent this from occurring, including room inspections to ensure all equipment is working properly, as well as advising guests on different features in the villas and equipment operation. Security will be in the disputed area, throughout the property, there will be camera surveillance 24/7, live security on a continuous basis – some officers will be assigned to those specific areas – patrol officers and all employees are trained to observe and report findings to prevent these types of incidents.

Member Anthony said a barrier could completely stop this type of incident from happening; he noted that facility will have a plan in place to try to make sure it does not occur, but it cannot be prevented every single time – some type of incident may occur unless there is a security guard standing by the pool 24/7. Even with a plan in place, the potential for instances still exists – a barrier would essentially eliminate the possibility.

Mr. Howard said that children can and will find ways to beat a barrier. He also said the facility could look at installing a barrier, but again stressed that a barrier is not a fail-safe.

Member Crowley summarized that there would be an exchange of a physical barrier for a human interaction as a measure for ensuring people do not wander into the pool enclosure. She noted there are not many security guards assigned and inquired as to lifeguard supplementation. She also asked about the number of individuals using the pool as she was concerned about the type of protection the security guards are providing.

Mr. Howard responded that security staff assigned to the pool areas are CPR and first aid trained. Security guards, known as “water rats,” who are assigned in the pool, are lifeguard trained and are part of the lifeguard team. At night there would be few people using the pool area and may be on a walk around the facility. There will be sufficient staff assigned to the pool enclosure for any events.

Member Crowley asked again about the number of individuals using the pool, as when humans are functioning as the protective measure as opposed to a barrier the ratio of protectors to those potentially using the pool is significant. Mr. Howard said it would be one or two individuals at most, even during a busy weekend – this is resultant of the protective controls inside the facility where guests cannot openly access the area.

Member Crowley asked if the Board has the authority to grant a variance to the NAC. Stephen Smith, board legal counsel, noted that staff makes a compelling case not to grant the variance; however the Board has the authority to grant the variance with the conditions outlined.

Ms. Jones noted that while NAC 444.463.2(e) states “...facilities, such as large resort hotels, which have continuous, 24-hour-a-day security of the pool area may be exempt from the requirements of this [barrier] section,” this refers to a security plan and historically this has been used for common areas such as the Festival Hall. Attachment M depicts photographs of different facilities’ use of security plans in common areas. Green Valley Ranch has a common walkway from the VIP villas with a security guard assigned at the entrance to the pool enclosure.

Ms. Hirata said the issue at hand is the courtyard-style barriers. While there are many facilities with 24-hour security and guards posted at the pool enclosure entrance, no facilities have high roller suites that open directly to the pool deck. This constitutes the courtyard-style barrier which is in

question. NAC 444.136.3, states “courtyard-type concepts in which gates or doors open directly into a pool enclosure from a dwelling unit or hotel or motel room are not permitted.”

Member Boutin argued that Green Valley Ranch villas have courtyards with private pool, spa and barbeque and the barrier was a six-foot shrub around the patio. Ms. Hirata said the plan must have been changed following initial pool plan review, because the original plan on page 34 of the packet shows a barrier with gated access.

Member Strickland said no security officers would be dismissed if protective barriers were installed, because the safety of those walking around the pool enclosure must be maintained. She does not feel this is an issue of substituting security guards for gates; this is an issue as to whether or not there is a purpose behind what the Board does and why certain regulations are posted. When rules and regulations are adopted it is because there is an acknowledgement of safety issues with respect to people accidentally falling into pools and potentially drowning. This is also why gates are preferred around private and residential pools. She said the issue of accidental occurrence results due to the inability to have 24/7 visual and physical surveillance of a given area. The barrier issue is important and has a purpose, thus it is included in the regulations. She states that though there are strong security measures in place, it is naïve to think that there will be eyes on everything at all times. Unless there is a guard at each one of the villas, or every two villas, and assurance that guards will not get distracted and leave their posts, a child could wander into the area and fall into the pool. The health and safety is predominant in this issue and she wants to ensure that all facilities are adhering to the approved pool plan reviews. She concluded that no compelling information was presented to support granting the variance.

Member Hardy referenced page 34 of the packet and the reference to Green Valley Ranch receiving a variance to NAC 444.136.7 and election of 24-hour continuous security versus a protective barrier. He inquired as to why this variance was granted and why the Hard Rock is seeking a variance for a similar issue with a different NAC citation.

Ms. Hirata responded that the Hard Rock intends to use security in and around the pool enclosure in lieu of a protective barrier. This is allowed under NAC 444.136.7, with an approved 24/7 security plan such as what exists at Green Valley Ranch. There are doors leading in and out of the enclosure and guards are in place to ensure that guests do not get in to the pool. The issue with Hard Rock is courtyard-style barriers, which is prohibited by NAC 444.136.3 which states, “Courtyard-type concepts in which gates or doors open directly into a pool enclosure from a dwelling unit or hotel or motel room are not permitted.” Hard Rock is asking the Board to allow the provisions set forth in NAC 444.136.7 to alleviate the prohibition of NAC 444.136.3. To date there is no history of a variance to this particular NAC being granted by the Board.

Ms. Hirata referenced the schematic of pool access for Green Valley Ranch on page 34; the walkway between the villas has a gate which opens to the pool enclosure. This is not considered courtyard-style because there is a second gate before the pool enclosure.

Page 50 depicts the Bungalow Suites at the Palms, which are located on the hotel deck with an overhang. Guests enter the pool enclosure by walking down a hallway, to a second hallway and out a gate. There is no access from the suite patios directly to the pool enclosure. Hard Rock is asking if the second barrier will be required, or can the guest use the back door of the suite as the barrier for the pool.

Chair Giunchigliani thanked Ms. Hirata for her clear explanation of the concerns and how other properties use second barrier protection.

Member Jones noted there is a difference between public access to a pool enclosure versus residential/guest access.

Mr. Barger said numerous units in town have access to private pools and spas with no self-latching mechanism on the door. He said it is just as likely for someone to go through these types of doors, and there is no 24-hour security for this type of room. The Bungalow Suites at the Palms have private spas on the patios and there is no security in place. The only way to avoid walking to that spa is by securing the double locks. There is just as much chance of accidental drowning in these spas as in other bathing places.

Member Jones noted that the private pool/spa belongs to the particular guest staying in the villa/suite and is in custody of that bathing place, whereas a public area pool falls under the scope of the facility. He stressed the difference is between private and public bathing areas

Mr. Barger said the double-latch doors are self-closing, and would need to be propped in order to remain open to the patio. The same concept applies to reenter the room. He noted each type of bathing place falls under the jurisdiction of the health authority.

The Hard Rock pool enclosure will close at 10pm each night. Children and families are able to stay in any of the fourteen high roller suites.

To date there are no reports of drownings or near-drownings at any Strip property. Member Christensen noted in any emergency room there are people who have been found down, intubated and transported to the hospital – these instances could have been the result of near-drownings. Dr. Sands clarified that the health district has received no reports of drownings associated with the resort corridor; however drownings are just one end-point. Submersions and people that “go down” and other situations that may cause someone to be in an emergency room may not be reported and collected as a statistic.

Member Fairchild expressed concern that celebrities and their entourage may be enjoying themselves late into the evening, and decide to take a swim late at night – due to public relations this is allowed to occur as the guests are high rollers. She is further concerned that one security guard would need to forbid numerous people in a high profile group, who could be inebriated, from entering a pool.

Mr. Feigenbaum responded that high profile guests have a security guard assigned to them, as well as a butler. High profile guests are given more attention.

(Member Eliason left the meeting at 9:50am)

Chair Giunchigliani summarized that staff is recommending denial of the variance; however specific conditions were provided if the Board is to approve the variance. She asked Ms. Jones to recap the conditions:

1. The petitioner agrees to provide the health authority with the proposed operational plan for review, verification and approval. Verification of the plan will include a site visit to inspect all components, e.g. lighting, security, cameras, etc.;
2. The petitioner agrees to any additional modification of their operational plan and/or facility, as determined by the health authority, to prevent public health and safety issues and meet the requirements of NAC 444;
3. The petitioner agrees to maintain all components of the operational plan, as approved by the health authority;

4. The petitioner agrees to operate facility as approved by the health authority. Any deviation from the approved plan will require approval from the health authority;
5. The petitioner agrees to random unannounced surveys to test the proposed operational plan;
6. The petitioner agrees the North and South Tower room locks and doors (childproof double latches and self-closing doors) are included as a component of the routine inspection for these bodies of water. These rooms will be inspected to ensure compliance with the operational plan;
7. The petitioner agrees any changes to the North and South Tower room locks and doors (childproof double latches and self-closing doors) will require approval of the health authority;
8. The petitioner agrees to provide a security plan for the access to the pool facility from the common areas;
9. The petitioner agrees to maintain security records for one year and provide the health authority access to these records;
10. The petitioner agrees to provide a lifeguard plan for these bodies of water. The facility will maintain the adequate number of lifeguards, as approved by the health authority;
11. Failure of the petitioner to:
 - Provide and maintain components
 - Agree to modification of plans or facilities
 - Provide required documents
 - Operate facility according to approved plans
 - Provide access to facilities or documents
 - Seek and receive approval from the health authority as requiredwill result in the voiding of the variance and the installation of an approved barrier, as per NAC 444.136. Applicable fees, submittals and approvals will be required for implementation of the petitioner's plan.
12. Failure of the petitioner to prevent public health and safety issues, as determined by the health authority, will result in the voiding of this variance;
13. This variance is automatically terminated without further notice upon the closing of any sale transaction involving the subject property, or upon petitioner leasing or assigning operation of these public bathing spas to any other person or entity.

Chair Giunchigliani asked, in reference to condition #9, if records of "near misses" and hospital transports could be included if the variance is granted.

Member Barlow asked if the variance were approved and something should occur at the property if the district or the Board would be liable in any way due to the affirmative vote to allow the Hard Rock to move forward with this plan. Mr. Smith noted there are two layers of protection, the first being the statutory cap limiting liability to between \$50,000 and \$100,000 depending on when the event occurred. Second, a statute provides for no liability in failure to inspect. Case law in the country deals with failure to find unsanitary food conditions during restaurant inspections. Ultimately the Hard Rock would be liable, but it cannot be guaranteed that the Board or the district would not be named.

Chair Giunchigliani asked if anyone from the public wished to comment on this item. Seeing none, she called for a motion.

A motion was made by Member Fairchild to deny the variance request based on staff recommendation; seconded by Member Strickland and carried on a 6-5 vote, with Chair Giunchigliani and Members Barlow, Boutin, Crowley and Weekly opposed.

Due to the mixed vote, Chair Giunchigliani called for a show of hands to verify the vote. Members Anthony, Christensen, Fairchild, Hardy, Jones and Strickland voted to deny the variance; Chair Giunchigliani and Members Barlow, Boutin, Crowley and Weekly voted to support the variance. It was confirmed that the variance was denied due to majority vote.

- 2. Memorandum #12-10:** Application for Approval for JACO Environmental, Inc. to Operate a Solid Waste Management Facility – Recycling Center, Located at 2629 E. Craig Road, Ste. A, B and C, North Las Vegas, NV 89030 (APN: 139-01-301-002 ptn)

Chair Giunchigliani declared the public hearing open.

Walter Ross, environmental health supervisor/engineer, and Arta Faraday, senior environmental health specialist, spoke relative to this matter. Mr. Ross said that JACO Environmental, Inc. has met all requirements to operate a recycling center as specified in Section 4 of the Regulations governing Recycling Centers.

Staff recommends approval based on conditions as outlined in the memorandum and a final inspection. Mason Joseph, representing JACO Environmental, Inc. was present to answer questions of the Board.

Chair Giunchigliani asked the Mr. Joseph if he understood and was in agreement with the conditions as specified; Mr. Joseph responded affirmatively.

The facility will accept refrigerators, cardboard and the like. Computers are not accepted, but can be taken to Executive Personal Computers for collection. At present only Phoenix Technologies is the only facility that creates a usable product from materials accepted; some of the materials recovery facilities create wood pallets as well. Mr. Joseph reported that his facility accepts glass, including glass shelving – it is being used as an additive for paving concrete and the like for beautification projects. The facility is designed for a maximum of twenty employees.

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 Crowley to approve the application with the conditions as outlined; seconded by Member Hardy and carried unanimously.

Member Jones commented on the link to the recycling website sent to the Board the previous day – he said the site was very nice and commended staff for their efforts.

(Member Christensen left the meeting at 10:03)

- 3. Memorandum #05-10:** Adoption of the Proposed Regulations Governing the Management of Waste Tires ***Continued from March 25, 2010 meeting***

Chair Giunchigliani declared the public hearing open.

The following is a verbatim transcription of the continued public hearing concerning Memorandum #05-10.

Dr. Sands: Memorandum #05-10, this is adoption of the proposed regulations governing the management of waste tires, consideration of business impact statement. This is continued from the March 25, 2010 Board

meeting. And back again are Dennis Campbell and Ed Wynder from our environmental health division.

Chair Giunchigliani: Dennis, I think you were in the film, too.

Dennis Campbell: Yes, I was. Well, we're back for round two of waste tire regs. As you know they were presented to the Board last time, but for a variety of reasons we're back again. So, what I'd like to do to begin with, for those Board members that missed the last Board meeting, is give you a quick refresher of why we're here. Basically this all started because of Senate Bill 186, which was passed by the legislature in the last legislative session, signed by Governor Gibbons on May 28, 2009; became effective on October 1, 2009 and has recently been codified into the NRS 444.505, 507 and 509. Basically what this Bill does is significant in the fact that it's the first piece of legislation passed in the state that bans a recyclable material, in this case waste tires, from municipal solid waste landfills. One of the provisions in the Senate Bill was that in any local health jurisdiction that has permitted a waste tire management facility, had to develop a set of regulations dealing with the management of waste tires. Also a provision of the Bill was that since we have already permitted two of these types of facilities in Clark County, the disposal of waste tires in municipal solid waste landfills is now banned.

(Member Boutin left the meeting at 10:05am)

So any waste tire generated in Clark County cannot be disposed of in a municipal solid waste landfill in the state. With that and based on the discussion held in the last Board of Health meeting, we've had a couple of meetings, went over a number of issues that were raised during the last meeting, and we resolved most of those issues. With me today, again, is Ed Wynder – he's my regulation writer, he's been living and breathing this set of regulations since last May.

(Member Christensen returned and was seated at 10:06am)

So I'm going to turn the microphone over to him and he can talk about our, the solutions that we've reached.

Edward Wynder: Thank you, Dennis; members of the Board. Happy Earth Day.

Chair Giunchigliani: Yes.

Mr. Wynder: Very appropriate...

Chair Giunchigliani: This is a good day for this. Yes, yes.

Mr. Wynder: ...that we're presenting these waste tire regulations today, April 22nd. There were a number, I think concerns is probably a little too strong of a word, but the regulations as proposed previously as largely intact with a few concerns of industry that have since has been resolved. And if you look on the slide in front of you, three of those concerns were: the definition of processing, which we have agreed to leave

intact as proposed; the concern that they had about putting in a provision that prevent disposal outside of the health district, they have...I guess we've come to agreement to leave it as is; and the financial assurance requirements have also been left as is with support of industry.

Member Barlow: Before you move forward, Madam Chair...

(Member Boutin returned and was seated at 10:10am)

Chair Giunchigliani: Mm-hmm, Ricki.

Member Barlow: ...I have a question in regards to item #2, lawful disposal outside the health district. Can you elaborate on that and explain what does that represent...what that represents?

Mr. Wynder: Yes sir, I'd be happy to.

Mr. Campbell: I'll answer that. In the Senate Bill and in the provisions of the NRS now there is a specific provision written into the legislation that said any regulations developed by the health district could not prevent the lawful disposal of a waste tire outside of our jurisdiction. So in other words, if there was a facility in another jurisdiction that would allow the disposal of a waste tire in a recycling center, a landfill, or whatever it is, our regulations could not prevent that lawful disposal.

Chair Giunchigliani: Bless you.

Mr. Campbell: Our regulations only focus on how we handle waste tires within Clark County. And that was very specific in the Senate Bill and now part of the NRS.

Member Barlow: So only Clark County?

Mr. Campbell: That's correct.

Mr. Wynder: And industry had hoped to, or had suggested that we consider limiting exports of tires outside of Clark County only to recyclers and it was our position that we could limit it only to recyclers – we couldn't limit to anyone, to any type of facility so long as the facility was lawfully permitted locally. So for example a landfill in Utah might accept tires and in order to save costs a waste tire generator may elect to ship tires to that landfill in Clark County, I'm sorry in Utah...

Member Barlow: That's alright.

Mr. Wynder: ...under their suggestion, the regulations would have prohibited that because the landfill in Utah, for example, was not recycling them; however it's our understanding and our opinion that the prohibition that Dennis spoke to would not allow us to prohibit that lawful disposal if it was lawful in Utah to do that. And industry has agreed with us and has returned that suggestion.

- Member Barlow: So in essence we can forward those tires to a Utah set-up for them to do what they will.
- Mr. Wynder: If it is locally permitted and lawful, we can't prohibit that.
- Member Barlow: OK. Thank you.
- Chair Giunchigliani: And it might be revisited next session, I think part of this was getting this off the ground and see what happens and what the impact is, because I don't want any more trucks trucking tires back to California as far as I'm concerned, and tears up our roadways...we'd rather keep our industry here. But this will be the first one getting off the ground. And then the Pic-A-Part had some issues and that was resolved as well? Warren's nodding his head yes. OK. So those three. Go ahead, you had some additional...
- Mr. Wynder: And then we had some revisions. We revised the definition of waste tire, we've revised slightly the definition of solid waste, and we've revised slightly the landfill ban
- Chair Giunchigliani: Right.
- Mr. Wynder: This is the new proposed definition of waste tire and it is shorted and a little less convoluted that then previous one, and it encompasses the motor vehicle term that industry wanted and goes a little bit beyond that so that we make sure that we have jurisdiction over waste tires without any doubt. Secondly, the definition of solid waste, the term "crumb rubber" was removed from that and in lieu of that we've added this sentence to the end of the proposed, the previous proposed definition. And this uses terminology that existing in state regulation in the NAC and it says: "for the purposes of these regulations a waste tire, and material derived from a waste tire, is solid waste until it is returned to the economic maintain stream in the form of raw materials or products." So essentially until, until it departs and is used by industry we retain jurisdiction over it.
- Chair Giunchigliani: OK, but then the crumb rubber can be used for the purposes of asphaltting and so on? OK.
- Mr. Wynder: Absolutely.
- Member Jones: Now does that resolve the issue of crumb rubber being a waste that needed to be a part of the financing of recovery. Let's say the business went out of business?
- Mr. Wynder: No, sir. That would...crumb rubber is still covered underneath the financial assurance requirements in that the financial assurance requirements required by a tire recycler would include whatever end product they have up until it is used.

- Member Jones: Seems like one of their issues was the crumb rubber that they may have produced on site, they did not want to have to have financial backing for...
- Mr. Wynder: You've got a very good memory. Indeed that was one of their concerns and we met with them at length about that and we've come to a resolution of that concern and what we've agreed with them in principle on is to...is that they will apply for an exemption from this Board in that they will provide legally binding contracts for sale for the crumb rubber that they have on site. And in exchange for having a financial assurance document to cover, or mechanism to cover that portion. And the rest of what they have on site, including the tire wire, the tire fluff, all the tires that they have on site will all be covered by that financial assurance mechanism.
- Chair Giunchigliani: OK, thank you. Linda has a question.
- Member Strickland: A just have a question. I'm going to take you back to the previous slide, the waste tire...so in our previous discussion I remember that one of my concerns was we have all these other kinds of tires, like ATV tires and motorcycles and other types. So this is now going to cover all of that, correct?
- Mr. Wynder: Well, this definition will and we'll speak to that a little bit more...
- Member Strickland: OK.
- Mr. Wynder: ...and I...when we come to the landfill ban.
- Member Strickland: Alright, thank you.
- Member Hardy: I mean, if I can interject...
- Chair Giunchigliani: Yes, doctor.
- Member Hardy: ...you used the word motor vehicle and a bicycle has a tire that's not a motor vehicle.
- Member Strickland: I meant motorcycle tire.
- Member Hardy: I mean, but no he said...
- Member Strickland: OK.
- Member Hardy: ...motor vehicle.
- Mr. Wynder: Yes.
- Chair Giunchigliani: A bicycle is considered a vehicle under state law and that's why they had to comply, supposedly, with vehicle laws.
- Member Hardy: But it's not a motor vehicle. So...

- Mr. Wynder: Correct.
- Member Hardy: ...are bicycle tires in this or not?
- Mr. Wynder: A bicycle tire would be considered a waste tire; however this definition, and I know there's a little bit of nuance here, but in the landfill ban, which again we'll come to a little bit later, bicycle tires are exempted.
- Member Strickland: OK.
- Mr. Wynder: So, Johnny's bicycle tire, he can throw in his nearest garbage can.
- Member Hardy: Yeah, and you're never going to be able to get those...
- Mr. Wynder: Yeah, and we have no intention of trying.
- Member Hardy: Thank you.
- Chair Giunchigliani: Only the ones that RTC gives out for their award. Go ahead.
- Mr. Wynder: OK. And I guess we'll go right into the landfill ban then. The landfill ban is basically set up in two ways. We have pneumatic tires that can be recycled in Clark County into usable products may not go to the landfill in any form. A pneumatic tire is a tire, be it a bicycle tire, a car tire that takes air pressure in order to operate – these are the tires that cause problems at landfills. And if that tire can be recycled locally it cannot go to the landfill and there are notable exemptions for that including bicycle tires, golf cart tires and off-road vehicle tires. That would include mining equipment tires as well as ATV tires and dirt-bike tires. However street-legal motorcycle tires would be included in this ban.
- Member Strickland: And what's the purpose of the exemption of the ATV and off-road motorcycle tires?
- Mr. Wynder: The purpose of the exemption was to not create a burden for residents and individuals who do their own maintenance of their own off-road vehicles.
- Member Barlow: And bicycles.
- Mr. Wynder: And it certainly could be removed and/or an individual operator could elect not to accept those sorts of tires. My...but that was the reason behind it.
- Member Strickland: OK.
- Member Boutin: I toured a tire manufacturing plant in Boulder City called Ameri-Tire which produces a polyurethane tire, mostly for golf carts. So would that product, that material be accepted or banned from the landfill?

- Mr. Wynder: Now I spoke to them while we were drafting these regulations and according to my understanding of the product that they are manufacturing, which I understand is still in the design stage, it would not be applicable because they operate without the need of compressed gas. Basically they're not pneumatic tires...
- Member Boutin: OK.
- Mr. Wynder: ...and so they wouldn't be included.
- Member Boutin: Thank you.
- Member Barlow: Madam chair?
- Chair Giunchigliani: Didn't we just allow that other regulation, they take refrigerators and polyurethane...I'll have to go back...yes, Mr. Barlow.
- Member Barlow: Would you mind just explaining "pneumatic?"
- Mr. Wynder: Yes. A "pneumatic..."a "pneumatic tools" are tools that use air power or like it's used at tire shops to remove the nut, you know the bolts from the wheels. Well, pneumatic tires are tires that you have to put air into. There are solid tires that are just solid rubber...they are not used except on construction equipment...
- Member Barlow: Right.
- Mr. Wynder: ...but our automobile tires, they're pneumatic because they require air pressure. Our motorcycle tires, our ATV tires are pneumatic because they require air pressure.
- Member Barlow: Bicycle?
- Mr. Wynder: Yes, sir.
- Member Barlow: OK. Thank you.
- Chair Giunchigliani: OK?
- Mr. Wynder: So if a tire, the pneumatic tire can be recycled locally as a reusable product it may not go to the landfill. If it is a pneumatic tire that cannot be recycled locally, it can be placed in a landfill but only after it has been properly processed to the point where it no longer presents an operational problem at the landfill, and this is the standard that has been adopted in other places, most notably California. That would include cutting the tire in four pieces, having sidewalls removed, and essentially that would prevent the tire 1) from when it's being dumped from bouncing around and being a hazard to the employees at the landfill and 2) from capturing the gas that's produced in the landfill and rising up to the top of the landfill over time. So this method of processing would prevent that from happening. So as proposed, these regulations meet all legal requirements and we feel that the

compromises are common sense and we feel that these regulations will protect the public health, the safety and the environment and encourage recycling. Thank you.

Member Strickland: Could you please go back to the last slide, I didn't get to digest it. Thank you.

Chair Giunchigliani: OK. There's a standard...so they don't percolate up, which was part...

Mr. Wynder: That's correct.

Chair Giunchigliani: ...of the comment. OK. Stavros?

Member Anthony: What's an example of a pneumatic tire that can't be recycled locally?

Mr. Wynder: Well, any tire above the size of a semi-truck tire essentially cannot be. We...there's not that many. Basically it's heavy equipment tires more than anything else.

Member Anthony: Mm-hmm.

Member Barlow: Your Caterpillar tires.

Mr. Wynder: Yes, sir.

Member Anthony: Why can't those be recycled?

Mr. Wynder: It's an infrastructure, not infrastructure, but it's the size of the tire they can put in the shredders...

Member Anthony: Oh, they don't have machines that...

Mr. Wynder: Correct. Correct.

Member Anthony: So...

Chair Giunchigliani: Ms. Strickland?

Member Strickland: Well I understand this, what this slide says that's in front of us and I understand the safety issue when it comes to the landfill, but if we're talking about trying to recycle and keep things out of our landfill, giving them this option that makes it something that they can now put in our landfill, it doesn't seem to be addressing that issue. I mean we're still going to get this things in our landfill and we're still going to have them...they're still not going to be recycling them. So what's the...why do we have this exemption here?

Mr. Wynder: Well, the Senate Bill required us to ban the landfilling of passenger car tires and these regulations as proposed go beyond that. What we wanted to is we wanted to ensure that there is an economic way to get rid of tires that can't be processed locally so that the burden of,

the burden to properly dispose of these tires is kept to a minimum, while to the best of our ability encouraging recycling. We would like to see all tires recycled. At the same time, staff hesitated to put in a ban that was so broad as to perhaps in some future unforeseen circumstance become burdensome. Now we certainly could and then we could allow for the exemption and waiver provisions that are in the regulations to account for future unforeseen situations that might be burdensome. We thought that we would include this to, as a protection to, from something like that. So we didn't get to a place where sending them to California or to another recycler when they couldn't be recycled locally became so expensive so that we ended up having tires beside the road or what have you.

Member Strickland: But we do know, at least I thought we had a company that's here in the Vegas valley that does the crumb rubber stuff and these can be processed locally, right?

Mr. Wynder: Yes, ma'am, and those that can be may not go to the landfill under any circumstance without this Board granting an exemption or a waiver.

Member Strickland: Right. So even when they do this, when they cut the four pieces and the sidewalls removed and all that kind of thing, they can still go to the crumb rubber people, right?

Mr. Wynder: They can still go to the crumb rubber people. Well, I won't speak for them because it may be that if a certain type of tire regardless, maybe it has too much metal or something, they might not be able to process it. But if it's a tire that they can normally process, then regardless of what the generator does, that generator cannot landfill that tire.

Member Strickland: Right. And so I guess that I'm confused when you said that one of the purposes of this is because it's to resolve the situations where it can't be processed locally and if some of these can be processed locally then I still don't understand the reason for the exemption because if they can go some other place even if they do these things to it.

Chair Giunchigliani: Right, because if they're cut up then they should still be able to do it here, so it's kind of a backwards approach. I mean, I appreciate what you're doing but...

Mr. Wynder: I guess if I understand you correctly, you're looking at a situation where the tire whole might not be able to be processed but if they were to process it and then put it into the existing process from the recycler are those the types of tires you're talking about?

Chair Giunchigliani: Yes.

Member Strickland: Yeah. And also I think that you said that, I mean, regular tires can...the way I read this...can have these things done to them and then they can be put in the landfill and you had said that you put this in there because it was to deal with the situation where you had tires

that couldn't be processed directly. But if some of these can be processed directly then why would you give them an exemption? It seems like we're taking tires that could be recycled, they could be processed...we're given them an exemption to do these things and now they're going back in the landfill.

Member Crowley: There was a section in there that said that cannot be processed locally...

Member Strickland: Mm-hmm.

Member Crowley: ...that's important because if they can't be processed...

Member Strickland: Then they can do this.

Member Crowley: ...then they can do this.

Member Strickland: OK, so these are only for tires that can't be processed.

Mr. Wynder: That's correct.

Member Strickland: Gotcha.

Chair Giunchigliani: Back to the other part. OK.

Member Jones: If it can be processed, it must be processed.

Member Strickland: Right. Gotcha.

Mr. Campbell: I think the other thing is we need to remember, too, is the there was a provision in the Senate Bill and now in the NRS that said any facility, any waste tire management facility that is permitted by the health district cannot refuse to accept a waste tire. So if somebody was to bring them a tire, without this provision, , they couldn't reject it, so then they're stuck with a tire that they can't handle. So by adding this provision in, that gives them an option option to say OK, we can take these tires, but we can't handle these other tires.

Member Strickland: OK, thanks for the clarification.

Chair Giunchigliani: Thank you. It helps me. So in our franchise agreements do we need to now go back in and make it clear what they can, because we have a recycling committee made up of all the jurisdictions that's going to have its first meeting in a couple weeks and we're going to look at the franchise agreements so maybe I better put that to an agenda.

Mr. Wynder: We've met, there's a monthly meeting with all the franchise directors from all the municipalities that we've attended to brief them on a couple months ago. We'd be happy to go back and discuss this if that is appropriate.

Chair Giunchigliani: OK. Great.

- Member Barlow: Madam Chair?
- Chair Giunchigliani: Did you...doctor and then...
- Member Hardy: Thank you. So what if economically speaking a processor got in a position where they can't sell their product, the crumb rubber or whatever, and so they fall under the definition of a tire that can't be reprocessed because economically they can't reprocess it and sell it so now we don't have anywhere we can put the recycled tire that can't be put anywhere else.
- Mr. Wynder: Well if the tire cannot be recycled locally, there is under the landfill ban, it could be processed and placed in the landfill which we all understand is not ideal. And so the landfill ban in one way takes care of that. There is a second provision that we've put in there where if a tire recycler becomes unable to accept the tires for whatever reason in the short term the Southern Nevada Health District can declare, can place some of these regulations, any or some of these regulations on hold until the next Board hearing and then the Board can decide how to proceed from there.
- Chair Giunchigliani: OK.
- Mr. Campbell: The other thing that you need to remember, too, is that the landfill ban only applies to municipal solid waste landfills, which are Class I landfills and there are only three in Clark County –Apex, Boulder City and Laughlin. The landfill ban does not apply to Class III landfills. Currently we have nine Class III landfills in Clark County, but none of them are permitted to accept waste tires. The only Class III landfill permitted to accept waste tires is actually in Lincoln County, Western Elite.
- Member Hardy: We talked about Utah and sending tires up to Utah...
- Mr. Campbell: That's correct. I believe Ms. Fairchild asked at last Board meeting asked about where they can take tires from Mesquite, because their landfill is actually in Lincoln County, just over the county line, so we have no jurisdiction. However because waste tires are generated in Clark County from Mesquite, they can't go to their landfill,.. There is a landfill in St. George, Washington County landfill, that is permitted to accept waste tires. It's actually a tire recycler, too, I believe. So that's an alternate they can use. The only thing is they can't take them to their own landfill.
- Member Hardy: By converse, there's a state next to us that is bigger than Utah, that has more tires that it...can they bring their tires to here and we can't refuse them?
- Mr. Wynder: Well, at this point with regard to the legal aspect, if that's a legal question I'll refer that to legal counsel, I know that one of the tire recyclers working in town, they don't actually process them in town they pick them up – they're called Lakin Tire, they take them (and

they're a national recycler of tires), they take them down to their facility in California and at this point they are importing a portion of their shredded tire to be processed locally by Phoenix in order to satisfy their demand, the demand for crumb rubber that Phoenix has. So there are waste tires coming in right now in the form of shredded tires. As so the legal portion of that question, I will punt.

Stephen Smith: I'm sorry, can you repeat the question so I can be sure I understood it?

Member Hardy: Not to name California in a public meeting to create ire, but if some other state brought their tires to Nevada are we in a position where we are obligated to take them and do something with them?

Mr. Smith: Yes and that involves both our statute regulations and the commerce clause issues and it's rather complicated and involved. I know you cannot...there've been cases dealing with garbage where you cannot prohibit garbage from another state...

Member Hardy: And that's where I'm going with this. If we write our regulations so it puts us in a box that we're not able to control our borders is there a fix to that?

Mr. Smith: I'm presuming in addressing your question that a tire recycler or transporter or whatever, bringing tires from California to Nevada would have to comply with our regulations and our law, too. So if they came here they would have to comply. I don't believe that we could do an outright ban, but we could set conditions under which the tires would be accepted, recycled, placed in the landfill, whatever. And that's what this law addresses. An outright ban, no. Conditions, yes.

Member Hardy: So do we have conditions in this regulation that allow us to make, to assure ourselves that we don't end up having more tires that can't be recycled, that we don't need to recycle, cut in four places and add to our landfill burden?

Mr. Smith: Regulations apply to everyone in Clark County, regardless of where they originate.

Chair Giunchigliani: Wouldn't it come down to who could accept it though, and I think that's where you're going, and I think we may have closed that loophole. Technically I'd rather not see them taking them out to California then we don't have the manufacturing capability, so I think that was a triangle we were...

Member Boutin: Well what do we do with our semi-truck tires. I mean you said there was no equipment to shred and recycle those, so do they just go straight into a landfill?

Mr. Wynder: Since Phoenix Recycling opened up, they have begun to be recycled in earnest. Prior and up to today, most tractor/trailer tires, most semi-truck tires are actually recapped so they shave off the outer most

layer and they put on new tread and then the tires are reused. And that's from a sustainability point of view, that's the ideal thing to do. And so the vast majority, that's what's done. The rest of them, to my knowledge, are being recycled.

Member Hardy: And that's why we see the remains the road.

Mr. Wynder: That's correct.

Chair Giunchigliani: And that's the other thing that we ought to be taking a look at, our street sweepers, our public works, or our state NDOT goes around and picks those up, where does that material go? I'll have to remember to ask about that. Ricky, I'm sorry, you were next. We all kind of floated here a little bit.

Member Barlow: No, I was listening to that law and I actually forgot, I need to write it down.

Chair Giunchigliani: But you're too young for that.

Glenn Savage: Madam Chair?

Chair Giunchigliani: Yes?

Mr. Savage: If I could help maybe with Dr. Hardy?

Chair Giunchigliani: Who are you?

Mr. Savage: Glenn Savage, environmental health director. One safeguard that we do have is that in the instance of Phoenix Industries and Lunas and others who receive permits from the Board of Health, there are capacity issues, issues concerning the fire and safety so that we do have safeguards in place so that you don't get a lot of tires coming in from California and they end up, again, causing a fire issue. We had a warehouse being dumped in an open lot, if you will, that's why we have those conditions. So that's part of our safeguards. As far as providing a resource that might be used for manufacturing or something that could be a good thing for the community if we could do that...

Chair Giunchigliani: And maybe down...we would take a look at what happens with the cleanup of the rubber that's just peeled off on our roadways and maybe see if there's a place to, where we can get together somehow from the jurisdictions, because we each have...I know the City does, you have a company that does your street sweeping, we do, and I'm not sure what NDOT does, but maybe that's just something down the road that we can take a look at...

Mr. Savage: Yeah, again, Madam Chair, Glenn Savage. In conversations with IDOT and others in the past, they do collect it. A lot of times it will go to a central area in the jurisdiction and then it will end up going to the landfill.

- Chair Giunchigliani: OK, so maybe we can take a look at that to divert it from the landfill. That would be another place. OK. Mr. Barlow do you recall?
- Member Barlow: No, I'm good.
- Chair Giunchigliani: Is there anyone else that wishes to testify on this? Good morning.
- Warren Hardy: Thank you, Madam Chair. Warren Hardy representing SA Recycling and Nevada Pic-A-Part. I would be remiss if I didn't stand and just thank you, the Board and your staff. As I mentioned at the last meeting, I've been doing this for a long time and I do not recall a staff that did more to reach out to the affected parties. And I particularly want to recognize Mr. Wynder because he just really went above and beyond. I think if he doesn't get another call from me in twenty years it will be too soon. But extremely responsive. And you know I think what you did on here, it is an extension of what was intended by the legislature, but I think it's appropriate one. I also want to recognize Senator Copening for her work on this. I'm actually pleased to have been a co-sponsor of this bill and one of the challenges when you deal with this type of legislation and these types of regulations is how you do something aggressive, good for the public...if it doesn't compel people to dump illegally...and I think you've hit on something here that is going to be very effective but not compel people to dump illegally. But again, I just want would be remiss if I didn't thank the Board, again, for your responsiveness to the concerns of the industry. But particularly, your staff, because they went way above and beyond the call of duty. Thank you.
- Chair Giunchigliani: Thank you for those comments, Warren. Is there anyone else who wishes to testify? OK, we'll close the public hearing. And I do say, from a business perspective the comments I've always heard about the agency it's one of the least bureaucratic and thinks differently so I commend you all for the time...but in the long run we've got a good product and I think that was the whole goal. So, on behalf of the Board thank you for your due diligence as well. Is there a motion to accept the regulations with the amendments that have been proposed?
- Member Jones: So moved.
- Chair Giunchigliani: So moved? And second?
- Member Strickland: Second.
- Chair Giunchigliani: OK. All those in favor say "aye."
- Board members: Aye.
- Chair Giunchigliani: Opposed? Motion carries.
- Member Crowley: I just wondered if you closed the public hearing.

Chair Giunchigliani: I think I...did I close the public hearing?

Member Fairchild: Yes, you did.

Chair Giunchigliani: Thank you. I always need people to help me.

A motion was made by Member Jones to approve the proposed regulations as presented; seconded by Member Strickland and carried unanimously.

(Member Barlow left the meeting at 10:35am)

III. REPORT / DISCUSSION / ACTION

1. Petition #08-10: Review and Action on Bids Submitted for Repairs of the Main Campus CMU Walls *Continued from March 25, 2010 meeting*

Scott Weiss, director of administration presented on this item. Approximately one year ago the Board was made aware of some structural issues with the main facility, and repair expenses were approved in the current budget. It has taken a great deal of time to get to this point, particularly with collecting information to go out for bid.

(Chair Giunchigliani left the meeting at 10:36am)

Staff prepared an RFP to solicit bids to repair the CMU walls. Staff recommends awarding the contract to the second lowest bidder, Harbor Company, Inc.; and rejecting the lowest bid from CB&G as non-responsive to the RFP. The RFP asked for references and encouraged the bidders to attend a pre-bid conference to answer questions in a fully transparent manner. CB&G did not attend, nor did the company schedule an individual meeting with the facility maintenance manager, which was an option. The three remaining bidders reviewed the project and on February 3rd the three known bidders were sent an answer to all questions submitted.

Again, staff recommends rejecting the first bid of \$39,500 from CB&G and award the bid to Harbor Company, Inc. in the amount of \$75,400. The third highest best was \$95,519.

(Member Barlow returned and was seated at 10:39am)

Member Jones asked if the recommended bidder anticipated any problems or concerns, or if add-ons (change order) would be necessary. Mr. Weiss indicated the only add-ons could be working during off-works and weekends to avoid disruption to services – the projected increase is \$2,500.

(Chair Giunchigliani returned and was seated at 10:40am)

Mr. Weiss stressed that providing references was a requirement; attending a pre-bid conference was expected and encouraged. The fact that CB&G did neither added to the non-responsiveness of the bid.

All the companies who responded to the RFP have business and contractor licenses and the recommended company falls under local bidder preference, though this was not a requirement as the bid fell below the \$250,000 threshold. Member Strickland asked that we encourage the company to use local labor. Mr. Weiss said that though the bid fell below the \$250,000 threshold, staff did verify which of the bidders met the preferences required of contracts over the

\$250,000 threshold, which is local bidder preference, which is based on factors such as paying sales tax and employees.

A motion was made by Member Weekly to award the contract to Harbor Company, Inc. as recommended; seconded by Member Strickland and carried unanimously.

2. Petition #11-10: Approval of Revised Tentative Budget for FY11

Scott Weiss, director of administration, and Mars Patricio, financial services manager, were present to address this item (**attachment #2**). Dr. Sands noted that Board approved the tentative budget for FY11 at the March meeting; however updated budget figures were received from the county following that meeting, resulting in necessary changes to the budget. Clark County management needs the updated tentative budget before the end of April to meet their deadlines to the state.

Preliminary numbers of Clark County property tax allocations indicated a reduction of \$1,073,000, or approximately 4%. New numbers reflect an additional reduction of \$2,517,589 which totals a 14.4% reduction for the year from property tax allocation. Initially we anticipated between a 10-20% reduction in general funds based on county projections and staff was prepared for this scenario when preparing the budget.

(Member Anthony left the meeting at 10:44am)

Between the original tentative budget and the revised tentative budget, there are three categories where the numbers changed from the 3/25 meeting. On March 25th, the Board approved a budget projecting total revenue of \$75,954,810; the revised budget reflects a reduction in revenue of \$2,842,111 totaling \$73,112,699 in revenue; \$2,517,589 of which is the reduction in county property tax allocation and \$324,522 in lost funding for the vector control program.

The Board approved expenditures of \$75,938,098, including salaries, fringe benefits, payroll taxes, services and supplies. The revised tentative budget reflects a reduction of \$2,852,753, for a total of \$73,085,345 in expenditures. By defunding thirty-eight (38) vacant positions across the district, we were able to save \$2,110,314 in salary expenses and \$742,440 in fringe benefits and payroll taxes. These positions have been vacant for some time, and are now defunded to generate cost savings thus eliminating the possibility of lay-offs.

The beginning fund balance remains the same as originally approved, which is \$25,117,116. Total revenue for the revised tentative budget is \$73,112,699, with general fund expenditures of \$73,085,345. Total projected transfers of \$6,147,015 are comprised of:

Capital fund transfer	\$2,243,864
Proprietary fund transfer:	\$2,078,658
Liability reserve transfer:	\$ 300,000
Bond reserve transfer:	<u>\$1,524,493</u>
Total transfers:	<u>\$6,147,015</u>

Total fund transfers in addition to general fund expenditures equal \$79,232,360 in total expenditures, leaving an ending fund balance of \$18,997,455. The ending fund balance represents 24% or 2.97 months of FY11 budgeted total expenditures.

In 2005, a five-year agreement between Clark County and SNHD was put in place to exchange Ryan White services for vector control. The agreement included a five-year funding component; however, the language was unclear regarding continuance of the funding. Environmental health staff has been exploring options to continue the funding; however, county representatives said recently there was no intention to continue funding after the five year period. The agreement terminates June 30, 2010 with no extension going forward.

Initially, conversations with county staff, proposed flat funding minus a 5% reduction, which was the original plan, the same number used to build the tentative budget. After learning that the funding for vector control would cease, revenue projections were adjusted and some vacant environmental health positions were defunded as a means to balance the budget as well as reduce expenditures to offset the \$324,522 in lost revenue. Staff will continue to provide vector control services through FY11; however, staff is also in conversation with various jurisdictions pertaining to vector control being a county-wide program and how best to fund this program.

Glenn Savage, environmental health director, noted that discussions have been ongoing for several months with code enforcement officials from each jurisdiction to find ways to provide both funding and services for the community related to "green pools" and mosquito abatement in common areas.

(Member Jones left the meeting at 10:59am)

Questions arose regarding where complaints are stemming from, how many come in annually, common areas for treatment and subsequent expenses, amount of chemicals used to treat and what type of equipment is used, as well as staff time involved, mileage expenses and all related expenses. There are differences in opinion as to how the program should move forward. City of Mesquite representatives noted they lack the necessary personnel, equipment and chemicals necessary to abate green pools and we should factor in an entire program to support the needs of Mesquite. Other code enforcement officials tend to use existing staff to investigate all green pools and determine whether to drain the pool, treat with chemicals, or further refer to SNHD for abatement. A meeting will be held the following week to further discuss plans for the future of vector control, including the possibility of fees for service or having each jurisdiction fully take over the program for their respective entities. Services provided by Vector control is considered a "public nuisance" and falls under NRS 439 as part of the health authority.

Chair Giunchigliani confirmed that \$324,522 had been funded for FY10 as part of the five-year agreement by swapping services with the county. This amount did not fully cover the cost of the vector control program – annual costs exceed \$700,000. She noted her concern in creating another bifurcated system. Member Boutin noted she had asked staff in her briefing what would occur if the county did not fully fund the program or an augmentation of financial conditions were not possible – it was noted that it would fall back on each jurisdiction. Councilwoman Schroder, from the City of Henderson, took the concern to the Regional Planning Coalition to discuss the possibility of a coordinated program with the health district and local jurisdictions – the meetings Mr. Savage referred to stemmed from this discussion.

Chair Giunchigliani noted in addition to the property tax allocation the county also provides \$1.4 million for Ryan White and \$324,522 for vector control and noted this amount did not fully cover the expenses incurred. She suggested that the discussions with the various jurisdictions include that if a regionalized approach is still desired, each jurisdiction provide some funding in a cost-sharing manner. She further noted she was not aware that the county would no longer provide funding for vector control services.

Member Boutin said if the health district does not provide this service, each jurisdiction will need to take on the responsibility, as the issue cannot be ignored. It is more cost effective to consolidate and collaborate; however we need to be sure the program is fully funded. The City of Las Vegas sends code enforcement officials who will drain a green pool when a complaint is received, after notifying the health district. Mr. Savage noted that the county has approximately \$120,000 for health-related issues, including draining green pools. With all the pools falling within the county's jurisdiction, approximately \$225,000 would be needed.

Mr. Savage stated when the initial conversations occurred between Don Burnette and Karl Munninger in 2005 no one could have foreseen the extreme financial conditions everyone is facing at this time. Member Fairchild said she appreciates having options, particularly in light of the current economic situation – Mesquite currently has one code enforcement officer for a population of 20,000. It makes financial sense for Mesquite to work with SNHD staff to address vector control situations.

The health district recently received funding in the amount of \$91,850 through the United Way of Southern Nevada in partnership with 100 Black Men of Las Vegas for the “Shots 4 Tots” program. This program allows for staff to publicize and provide immunizations to children in targeted areas. Staff continues to provide family planning services and a Title X audit was completed last week. The audit was very good with minor but fixable items noted. There could be more federal funding coming forward to support family planning as well.

Member Christensen referred to page 21 of the revised tentative budget and noted the increase in contract services under Community Health. Dr. Sands said this was due to the *Communities Putting Prevention to Work* grant and 84% of the funding is going to community partners. He also pointed out an error in physician and medical services under Community Health professional services – the numbers were inadvertently reversed. He asked if medical supplies truly decreased from \$21,000 to \$180. Mr. Weiss said the errors will be corrected.

(Member Jones returned and was seated at 11:04am)

Chair Giunchigliani asked if a listing of the thirty-eight defunded positions could be provided to the Board. She would like to see this information on a quarterly basis to see where divisions requested for positions to be filled and subsequent action. This would help the Board to better understand what staff feels they need and the district's response.

A motion was made by Member Strickland to approve the revised tentative budget for FY11 as presented; seconded by Member Fairchild and was unanimously approved.

(Member Weekly left the meeting at 11:05am)

3. Receive Report from the Southern Nevada District Board of Health Audit Committee; Direction to Staff (Committee: Committee Chair Jones and Members Barlow, Christensen, Crowley, Fairchild and Mattocks) ***Continued from March 25, 2010 meeting***

Scott Weiss, director of administration and Tim Jones, audit committee chair reported on this item. The audit committee met and reviewed common practice among various jurisdictions as well as recommendations from financial organizations. The GFOA recommends two months of reserve, or 17%. NAC 354.660 provides for a budgeted ending fund balance of not more than 8.3 percent of the total budgeted expenditures, less capital outlay, for a general or special revenue fund which receives revenue from property taxes or the Local Government Tax Distribution Account is not subject to negotiations with other local governments or employee organizations.

(Member Weekly returned and was seated at 11:06)

NAC 354 does not refer to maximum or minimum levels of reserve accounts, but more addresses protected amounts in arbitration situations related to negotiations, which allows for 8.3% or any reserves, no matter the balance, not to be considered by any arbitrator for negotiations.

(Member Weekly left the meeting at 11:07am)

Member Jones noted historically the reserve ranged from 16-25% and the current recommendation. The committee is recommending establishing guidance to maintain between 16.6% (2 months) and 24.9% (3 months) of reserves. GFOA also provides rationale behind exceeding the minimum balance of reserves, including predictability, vulnerability and emergencies. Property tax revenue fluctuates between 40-50% of the district's non-environmental health revenue, and is very unpredictable. The state is facing a potential shortfall of up to \$3.5 billion for the next biennium; during the last legislative session. AB543 redirected property tax revenue from Clark and Washoe Counties to supplement the state budget – we have no indication as to how the upcoming session will affect property tax revenue. The district also lost \$1.3 million of funding from the Master Settlement Agreement for tobacco control programs. Other large grant awards have yet to be announced in the coming year for public health preparedness and ASPR, which can also affect operations. The state is looking to reduce grants and contracts with various jurisdictions to help offset shortfalls at the state level as well.

Many of the district's grants are based on reimbursement, which means the district spends the money and is later reimbursed for expenses. Cash flow must be maintained to cover the time between expending the funds and receiving reimbursement. Mr. Weiss referenced LA Power & Light, who did not make their payment to LA County and as a result the county shifted to mandatory two-day furloughs due to loss of funding. He expressed his concern about cash flow problems in the state due to potential slow down in reimbursements – we need to ensure appropriate cash flow to fund employees, which is approximately 73% of expenditures, and fully maintain public health services.

In respect to emergencies, federal funding is also done on a reimbursement basis. Without the H1N1 grant dollars, we would have relied on FEMA reimbursement and the district would have dipped into reserves to cover the \$3.5 million expenses related to H1N1.

Mr. Weiss felt the guidance to maintain between two and three months of reserve would satisfy the rationale from GFOA, while not shifting any authority from the Board. If economic situations change the Board can change the guidance as necessary.

Chair Giunchigliani noted the NAC holding 8.3% of the reserve for negotiations and for a two-month reserve. Mr. Weiss said 8.3% is only one month of operating expenses – this is based on taking the 100 percent and dividing by the twelve months. Chair Giunchigliani noted the school district maintains no more than a 3% reserve; she further stated the reserve should only be a two-month hold. She said other jurisdictions are freeing up some of their reserves versus laying off employees or reducing services. She expressed concern about paying taxes to the jurisdictions and having the money sit in an account unspent.

Mr. Weiss said each month the district expends approximately \$6 million. The district is recommending a reserve level between 16-24.9% to account for just over two months of operating expenses, as well as plan for emergencies and cash flow needs.

Chair Giunchigliani said she did not want too much money sitting in a reserve and experience problems with staffing; or having the public pay certain fees and the monies are not being expended as outlined. She further said having too high an ending fund balance could cause the state to look at reserves.

Mr. Weiss said he shared these same concerns. In concert with the audit committee these concerns were addressed, as well as ensuring the three goals set for the budget were met, including: 1) protect the community and public health; 2) protect the public health workforce; and 3) being fiscally responsible.

The revised tentative budget, approved today, estimates a ending fund balance of \$18.9 million, which is 24.9%. Mr. Weiss said if the reserves exceed 24.9%, the Board will need to approve how to expend the excess reserves taking into account staff's recommendation, including providing additional services. Chair Giunchigliani said if the county's allocation is \$24 million and there is a reserve of \$18 million, the county may reevaluate the funding stream. She agreed there needs to be a balancing act and a certain level in the reserves; however if the level is too high and programming is affected there are potential risks.

Federal grants have a sixty-day cycle. For example, all expenditures for the month of March are due to the state by April 15th; the state takes approximately thirty days to pay the money, which is now at forty-five days. The pay cycle does fluctuate between forty-five and sixty days for reimbursement. Some states are experiencing cash flow problems, which then dominoes to the local jurisdictions and this is a potential concern for Nevada as well. Member Christensen said no matter what percent is maintained in the reserve, we need to note how many months of total expenditures it truly represents to better understand cash flow. Mr. Weiss explained we base our reserves on total expenditures as the funds come from the general funds for expenses and transfers (capital, liability and proprietary) – this is because we do not have true enterprise funds as the local jurisdictions.

(Member Crowley left the meeting at 11:26am)

Member Jones noted that the ending fund balance is reducing from \$25 million to \$18 million so the reserves are being reduced.

Dr. Sands said he agreed with the Board's observations. He noted the district has numerous mandates in statute and Board policy, which do not come with funding. Staff does a wonderful job in obtaining grants and alternative funding, as well as generating fees where appropriate to pay for services. Many fees are waived, however, such as with immunizations, as our job is to protect the public's health. When grants decrease, the mandate remains and the district is taxed with providing services – there needs to be enough of a cushion not only for cash flow but to ensure we are in the position to deliver the services we are mandated to provide.

The district currently employs approximately 540 people. Union membership is running at approximately 55% of eligibility. The current collective bargaining agreement expires June 30, 2011; staff hopes to begin negotiations in early 2011 in order to conclude negotiations prior to submitting the tentative budget in March 2011 and final budget in June 2011.

Mr. Weiss reported the H1N1 outbreak is the most expensive outbreak to date; through the end of March 2010 \$3.5 million has been expended on response. The hepatitis C outbreak investigation and response ranged between \$500,000 and \$1 million. Tracking complete cost of any emergency is very cumbersome; however the H1N1 response was the best tracked response as a separate accounting component was established early to track expenditures,

though some expenses did fall through the cracks such as time spent answering phone calls, emails, etc.

Dr. Sands said a few years ago we had a multi-drug resistant TB patient whose treatment exceeded \$250,000 over a two-year period – this was a joint treatment with UMC as the patient had other medical problems. SNHD staff were trained to administer intravenous therapy and provide other care due to the unique circumstances.

Member Fairchild said if another situation like the H1N1 outbreak or hepatitis C investigation occur, and due to the importance of public health, a reserve is critical for if and when these events happen.

Mr. Weiss said when the hepatitis C outbreak occurred there was no way to know how it would turn out and the legal battles which ensued. Chair Giunchigliani suggested a mechanism be developed, possibly legislatively, to help the various entities recoup costs during these types of events. Dr. Sands said the initial settlement agreement was used to offset expenses with maintenance of medical records between Metro and the City of Las Vegas. The district has incurred litigation expenses related to records requests and retention of outside counsel to defend our privilege as a health authority.

The guidance will reflect that the reserve account will be expressed in both monthly amount and percentage basis, based on total fund expenditures and transfers versus general funds.

A motion was made by Member Christensen to accept the report from the Audit Committee as presented and adding a reference to adopting a flexible policy with regard as to how to establish a reserve; seconded by Member Boutin and was unanimously approved.

4. Establishment of Environmental Health Division Finance Policy Review Committee *Continued from March 25, 2010 meeting*

Dr. Sands noted this committee is being created as a result of discussion at the February 2010 Board meeting related to establishment of environmental health as an enterprise fund. There are a number of issues requiring consensus and some will need to be revisited. The committee will also address other concerns and questions brought forward by the Board. The committee will work with environmental health and administration staff to provide necessary information for the full Board's review and action.

(Member Crowley returned and was seated at 11:35am)

The committee will be comprised of the following:

- Board chair or designee
- Physician member
- Regulated Business/Industry member
- Environmental specialist member
- Two elected members representing a jurisdiction other than the Chair

The committee will begin by reviewing the entire environmental health program and services to understand what is trying to be accomplished. The funding structure will be reviewed to determine the funding coming from regulatory fees versus general support and what the fees are supporting. The committee will also review the possibility of establishing an enterprise fund.

After all information is reviewed, statutory fee development will be analyzed to ensure we are proceeding appropriately.

A motion was made by Member Crowley to accept the recommendation as presented seconded by Member Fairchild and was unanimously approved.

Membership for the committee was set as follows:

- Chair – Chris Giunchigliani
- Elected – Donna Fairchild, Mesquite
- Elected – vacant
- Environmental Health – Susan Crowley
- Regulated Business/Industry – Tim Jones
- Physician – Jim Christensen

Mrs. Clark, upon direction of Chair Giunchigliani, will email the Board to solicit a volunteer to fill the last elected seat on the committee.

IV. PUBLIC COMMENT

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

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

V. HEALTH OFFICER & STAFF REPORTS

Health Officer Update

Dr. Sands referenced the flyer provided to Board members regarding the MCH coalition meeting on May 26th (**attachment #3**), which is being coordinated by the Southern Nevada Maternal Child Health Coalition. All Board members are welcome to attend to learn about how we can improve the health of women and children in our community.

(Member Strickland left the meeting at 11:38am)

STD Awareness Month

Dr. Sands suggested the STD Awareness Month presentation will be held to the May meeting, along with the Great Basin Public Health Leadership Institute scholar presentation. In reference to STD awareness, the theme this year is "get tested, get educated."

VI. INFORMATIONAL ITEMS

DULY NOTED

A. Chief Health Officer and Administration:

1. Monthly Activity Report, Mid-March 2010 – Mid-April 2010
 - a. Note of Appreciation from Sheriff Gillespie to Dr. Lawrence Sands
 - b. Letter of Appreciation from Kraft & Sussman regarding Kathie Franklin, vital records clerk and Shelli Clark, executive assistant

- c. Letter of Appreciation from LVMPD's Organized Crime Bureau, Special Investigations Section regarding environmental health staff
- d. Letter of Appreciation from John F. Marchiano regarding environmental health staff
2. Financial Data: Revenue and Expenditure Report for General Fund, Capital Reserve Fund and Public Health Laboratory Fund for the Month of March 2010
 - a. Grant and Agreement Tracking Report, as of April 12, 2010
3. Public Information Monthly Report, Mid-March 2010 – Mid-April 2010

B. Community Health:

1. Monthly Activity Report, March 2010
 - a. Southern Nevada Influenza Surveillance Update #17
 - b. March 2010 Disease Statistics

C. Environmental Health:

1. Monthly Activity Report, March 2010
 - a. Letter of Appreciation from Carolos Solano regarding Gerald Bletsch, EHS II
 - b. Letter of Appreciation from NSF International regarding Susan LaBay, EH training officer
 - c. Letter of Appreciation from Water Wings Swim School regarding Joy Clark, EHS II and Mallory Jett-Edwards, senior administrative assistant
 - d. Email of Appreciation from Industrial Properties Development, Inc. regarding Paul Klouse, EH supervisor and Craig Bowlan, EHS II
 - e. Email of Appreciation from Omelet House Family Restaurants regarding James Sladky, EHS II

D. Clinics and Nursing:

1. Monthly Activity Report, March 2010
 - a. In-service calendar
 - b. News Release – National Women and Girls HIV/AIDS Awareness Day

VII. ADJOURNMENT

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

SUBMITTED FOR BOARD APPROVAL

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

/src

attachments