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*Mission: To protect and promote the health, the environment and the well-being of Clark County residents and visitors.*

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## **MINUTES**

### **CLARK COUNTY HEALTH DISTRICT DISTRICT BOARD OF HEALTH MEETING**

625 Shadow Lane  
Las Vegas, Nevada 89106  
Clemens Room

**Thursday, May 27, 2004 - 8:00 A.M.**

Chairman Reese called the meeting of the District Board of Health to order at 8 a.m. and the Pledge of Allegiance was held. He noted that he had been provided with the Affidavits of Posting and Mailing of Agenda meeting notices, as required by Nevada's Open Meeting Law. The Affidavits will be incorporated into the Official Minutes.

#### Board Members

##### Present:

Gary Reese	Chairman, Councilman, Las Vegas
Sherry Colquitt, RN	Appointee, Las Vegas
Jim Christensen, MD	Physician At-Large
Susan Crowley	Appointee, Henderson
Andrea Anderson	Councilwoman, Boulder City
Robert Eliason	Councilman North Las Vegas
Donna Fairchild	Councilwoman, Mesquite
Joe Hardy, MD	Appointee, Boulder City
Mary Jo Mattocks, RN	Appointee, Mesquite
Steven Kirk	Councilman, Henderson
Chip Maxfield	Commissioner, Clark County
Rory Reid	Commissioner, Clark County
Stephanie Smith	Councilwoman, North Las Vegas

#### Executive Secretary:

Donald S. Kwalick, MD, MPH

#### Legal Counsel:

Stephen Minagil, Esquire

Staff: Karl Munninger; Glenn Savage; Fran Courtney, RN; Steve Goode; Ed Wojcik; Jane Shunney, RN; Rory Chetelat; Angus MacEachern; Patricia Rowley; Mary Ellen Harrell; Maureen Fanning; Rose Marie Lee; Jeanne Palmer; Jennifer Sizemore; Michael Palmer; Forrest Hasselbauer; Leo Vega; and Recording Secretaries Diana Lindquist and Montana Garcia

#### **ATTENDANCE:**

<u>NAME</u>	<u>REPRESENTING</u>
Peggy Hasselbalch	Legacy Ice Cream
Tim Hasselbalch	Legacy Ice Cream
Sayed	Mr. Marshall's Ice Cream
Kayed Alshoukai	Mickeys Ice Cream
Mike VanderHeiden	Pooters Ice Cream
Tammy VanderHeiden	Pooters Ice Cream
M. Wickel	Adams Ice Cream
Jim Ferrence	Paladin Advertising
D. Kevin De Grow	O'Reilly & Ferrerio
Michael Harwell	Clark County Business License
Brian Bien	Nevada Construction Clean Up, Inc.
L. Earl Hawley	Nevada Construction Clean Up, Inc.
Mark Norton	Community Counseling Center
Antioco Carrillo	Community Counseling Center
Ronald Lawrence	Community Counseling Center
Robert U. Barone	Community Counseling Center
Judy Zachodni	Community Counseling Center
Sherrie Burch	Community Counseling Center
Christopher Ware	City of Las Vegas
Steven A. Stefani	Budget Suites of America
Gil Morgan	Baker Commodities
Andy Souther	Darling International
John Bohannon	Darling International
Julia Furrule	Budget Suites of America
Gita Balakumak, MD	Pediatric Resident – UNSOM
Lee Budd	Caesars Entertainment
Michael Dayton	City of Las Vegas
Billy Suggs	Clark County
Mohinder Singh	C & L Ice Cream
Darshar Singh	C & L Ice Cream
Tigist Kebebe	Bienne Ice Cream
Kisu Sadiq	Haas Ice Cream
Marcia Holmberg	UMC

**OATH OF OFFICE**

Stephen Minagil, Board Legal Counsel administered the Oath of Office to Mary Jo Mattocks, RN, the new member from Mesquite, Nevada.

**I. CONSENT AGENDA**

These are matters considered to be routine by the 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.

*Member Colquitt moved for approval of the following consent agenda. Motion was seconded by Member Smith and carried unanimously.*

1. **Approve Minutes/Board of Health Meeting:** 04/22/04
2. **Approve Payroll/Overtime for Periods of:** 03/29/04 - 04/09/04; 04/10/04 - 04/23/04; 04/24/04
3. **Approve Accounts Payable Register:** **#918:** 04/01/04 - 04/07/04; **#919:** 04/08/04 - 04/14/04; **#920:** 04/15/04 - 04/21/04; **#921:** - 04/22/04 - 04/28/04
4. **Petition #18-04:** Approve One Year Extension of Interlocal Agreement Providing for the Transfer of the Emergency Medical Services Communication System from the Health District to Clark County
5. **Petition #19-04:** Approve Proposed Redefinition of the Classification Specification for Financial Services Manager to remain on Schedule 28 (\$62,410 - \$87,054)
6. **Petition #20-04:** Approve Proposed Redefinition of the Classification Specification for Logistics Specialist - Schedule 21 (\$43,661 - \$60,848) to Replace Environmental Health Bioterrorism Logistics Planner - Schedule 22 (\$45,930 - \$64,036)
7. **Petition #21-04:** Approve New Classification Specification for Grant Administrative Supervisor to be Placed on Schedule 24 (\$50,847 - \$70,948)

## II. **PUBLIC HEARING/ACTION**

1. **Memorandum #03-04:** Proposed Solid Waste Management Authority Regulations Governing Materials Recovery Facilities (MRF)

*Member Maxfield moved to hold this time over until the next Board of Health Meeting in order to permit further discussion between interested parties and stakeholders to clarify and allow resolution of some language in the regulations. Motion was seconded by Member Kirk and carried unanimously.*

## III. **REPORT/DISCUSSION – ITEMS ON WHICH ACTION MAY BE TAKEN**

1. **Memorandum #04-04:** Ryan White Funded Mental Health Services (Board Request)

Dr. Kwalick commented that at the April 2004 meeting the Board directed staff to place Ryan White Title I funded mental health services on the May 27, 2004 agenda after these services were called to the attention of the Board by Community Counseling Center (CCC) CEO Ron Lawrence.

Community Counseling Center, the previous service provider, did not submit a proposal for continued funding. When no proposals to provide mental health counseling services were received in response to the District's RFP, staff negotiated with state mental health to provide these services. Additionally, our attached letter to HRSA Project Officer Lorenzo Taylor in response to Mr. Lawrence's March 15, 2004 letter to Mr. Taylor (Attachment 1) documents valid reasons for seeking another service provider.

To smooth the transition of patients from CCC to Southern Nevada Adult Mental Health Services, the contract with CCC was extended from February 29, 2004 to June 30, 2004. CCC has been requested to prepare patient records for transfer to the state agency (see attached letter from CCHD Program Manager Mary Ellen Harrell to Mr. Lawrence Attachment 2).

Since no Ryan White Title I dollars have ever been reimbursed to CCC for Dr. Michelle Lisoski's services and since Dr. Lisoski provides services at UMC under Ryan White Title III, staff anticipate that the most acutely ill patients can continue to see Dr. Lisoski.

Chairman Reese asked if any member of the public wished to speak.

Dr. Lisoski explained that she was a psychiatrist who has worked with the HIV+/AIDS population since December 1997. In this capacity she had collaborated closely with CCC to bring mental health and substance use care to clients. She expressed concern about continuity and access to care for clients through Southern Nevada Adult Mental Health Services. She provided Board Members with recommendations and urged Staff to continue collaborative efforts with the CCC to provide services for clients.

After discussion between the Board Members, Staff and Dr. Lisoski, staff was directed to consider CCC's recommendations and try to resolve the issues and report back to the Board on the status of mental health services for Ryan White patients

*Member Hardy moved to have staff try to resolve the issues. Motion was seconded by member Smith and carried unanimously.*

**2. Memorandum #05-04: Ice Cream Vendor Truck Using Dry Ice (Board Request)**

Dr. Kwalick introduced Daniel Maxson and Paul Klouse, Environmental Health Supervisors who provided a presentation on the ice cream truck vendor requesting to use dry ice.

In the past, many ice cream truck freezers were simply packed with dry ice in the morning to keep product frozen throughout the day without a functioning compressor maintaining required temperature in the freezer box. Although this does indeed keep the novelty ice cream products frozen, it is not how the freezer was designed or ever intended to operate.

Tammy VanderHeiden operates two ice cream trucks and requested an exemption from the requirement for mechanical refrigeration on the basis that the operator uses dry ice. It was explained to the operator that dry ice cannot be used in lieu of mechanical refrigeration as the ice cream freezers are specifically designed for mechanical refrigeration. Dry ice can crack plastic parts of any freezer shortening the freezer's operational life (see attached e-mails). The operator stated that she does not need nor use any dry ice until temperatures exceed 100 °F. Environmental Health Division Special Programs staff arranged to test her ice cream freezers to verify the adequacy of dry ice in the trucks. She told the Special Programs Supervisor that she had been advised not to allow any testing of her equipment.

Paul Klouse explained that the regulations adopted in 1996 governing the Sanitation of Food Establishments, 96.05.0200.1, as well as Nevada Administrative Code 446.275, precludes the use of food equipment in permitted food establishments that is not certified to have been manufactured and tested to the applicable National Sanitation Foundation standards (NSF), or an equivalent standard. In regard to freezers and refrigerators, part of that certification involves testing the function of the unit using the listed compressor. Equipment must not only be certified to a certain standard, but the use of that equipment must be within the scope of the testing criteria. The freezers approved for use in ice cream trucks were never tested or intended to be used with dry ice; they were tested and approved to operate using the installed compressor. The CCHD regulations preclude the use of equipment in food establishments that is not national sanitation foundation (NSF) approved. Freezers and refrigerators are tested to function using the listed compressors that comes with them. The section that applies to refrigeration freezers and their materials and construction indicated that they are designed to operate with the compressors that they were built with. They are not designed

or tested to operate with dry ice. The use of the equipment must be within the scope of the testing criteria.

In September 2003, the Plan Review Section, Food Program, began inspecting new ice cream trucks, ice cream trucks undergoing a change-of-ownership, and others as requested by the operational inspector for compliance on a variety of issues. At that time, operators were informed that they must have the means to provide electrical power to operate the freezer units while driving. The most typical mode of compliance seen is the installation of an electric inverter that transforms 12-volt Direct Current vehicle power to 120-volt Alternating Current, sized to match the energy needs of the freezer (usually 800-1000 watts, at a one-time cost per unit in the \$70 to \$200 range). Other operators have installed generators to power their freezers.

In addition to the regulatory issues, safety concerns regarding the presence of dry ice in enclosed vehicles have also been discussed. As "dry ice" is carbon dioxide in a solid form; as it sublimates (changes state from a solid directly to a gas), a significant volume of carbon dioxide is released into the air. Carbon dioxide is heavier than air and tends to displace air in enclosed spaces, thus reducing the available oxygen. This can potentially lead to asphyxiation of persons present in that enclosed space.

Another impact is that the vendors will need to purchase an additional battery to power the inverter at an approximate cost of \$80. In Environmental Health Division research, trucks on average use approximately ten pounds of dry ice which equates to \$45 to \$63 per week depending on how many days a truck operates. Using these figures, the inverter will pay for itself within four weeks of being installed, and the cost of dry ice will be alleviated.

So far, 35 of the permitted 175 ice cream trucks have been approved with changes and are in compliance with the balance of the trucks being expected to come into compliance no later than July 2004; however, if there are extenuating circumstances with which the operators are not able to comply, the Environmental Health Division is willing to work with them on a compliance schedule to extend this deadline to the end of 2004. Therefore, staff is recommending to continue to hold the vendor accountable for having refrigerator equipment which complies with current regulations to include the electrical operation of the equipment.

Chairman Reese asked if any member of the public wished to speak.

Tammy VanderHeiden commented that there are many issues surrounding the use of dry ice and the July 1, 2004 compliance date. Ice cream trucks are low risk. There is no law or regulation that would require the ice-cream trucks to get an exemption or that states that dry ice cannot be used. During her many years in business the Environmental Health inspectors have approved the trucks 100 percent of the time when dry ice was present in the freezer during an inspection. This is an administrative decision not a regulatory change.

The laws and regulation codes do not define ice cream trucks that carry prepackaged food. The codes and regulations that staff are using are strictly for mobile vendors which according regulation 96.01.0031 and NAC 446.015 Mobile Unit Defined means "any vehicle operating from an improved servicing depot in which food, beverages, frozen desserts or dairy products are mixed, prepared, processed, or converted for human consumption, and which is used to sell food and beverages to customers".

According to Staff there have been no health issues or accidents caused by dry ice and that indeed keeps the frozen novelties frozen. Dry ice CO<sub>2</sub> is one of the gases in our atmosphere and has been used in the food industry as an expendable refrigerant for many years. It has been recognized as safe for use in foods, whether it is a solid liquid or in a gas form. Also, it can be used in virtually any

situation requiring cooling and freezing. Dry ice is easy and convenient to handle. It's suitable for cold temperature storage and transportation of perishable goods. Dry ice evaporates without residue. The dry ice is neither poisonous nor flammable. These properties make it extremely valuable in the food industry to a large extent. Although staff, indicates concern using dry ice because it can crack plastic parts of any freezer therefore shortening the freezers operational life. The Health District's webpage recommends that if your freezer is not operating properly, the more dry ice you use the longer the food will stay frozen. It is recommended to use 2 ½ -3 lbs of dry ice per cubic foot of freezer space and even more for an upright freezer.

Using dry ice is more cost effective than using an inverter or generator on the trucks/vans. Placing an inverter or generator on the trucks/vans will be more of a health hazard, because more heat will be generated because the freezers are running continuously. In that way it is not going to save money because dry ice will still be needed on top of the ice cream because every time you open that freezer door the air comes in down on the ice cream and it still will make all that ice cream on top soft.

Staff recommends using an inverter but there still will be a need for an extra battery which is going to be put inside your truck. However, with that there is a chance of the battery either leaking or exploding and that's more of a hazard than dry ice.

Dry ice is not a health hazard in the situations that the ice cream trucks/vans use it. Dry ice is used on 99 percent of the vans which have the windows open with the screen on them or else it just gets too hot inside. By putting the inverter or the generator on there is still going to be extra heat coming into the van so in no way will it save money. Also another issue with that is if you use an inverter or generator that doesn't produce enough power that is hooked up to the freezers, there is a chance of either causing a fire or burning out the compressors in it because it is not producing enough energy for them.

As far as the issue with the dry ice sublimating nobody really knows, nobody could give specifics on how much and how fast it's going to dissipate. It does dissipate and there is nothing left but the paper cover. Staff are taking something that is simple and that has worked and continues to be used throughout the industry and making it complicated and expensive. So there is an issue with cost.

Staff noted that the administrative decision had to do with the fact that there is no specific location in the regulations that says that you have to plug a freezer in. It is simply implied. The administrative decision did not involve dry ice it involved using the freezers the way they are designed to be used.

Peggy and Tim Hasselbalch, representing Legacy Ice Cream and Candy stated that they had been selling dry ice for 13 years with no health hazards. Dry ice has been used for 60 years in Las Vegas. They noted as member of the International Ice Cream Association that dry ice is used across the US. The new rule will cause more of an air pollution problem from catering trucks and/or ice cream trucks keeping the engines running. If there needs to be a new rule perhaps it should be that the dry ice be double bagged. Ice cream should be at a minus 10 degree as a maximum temperature.

Kisu Sadiq representing Haas Ice Cream explained that dry ice was very efficient and cost effective in keeping the ice cream at the proper temperature. She questioned whether investing in a generator or inverter was truly a cost saving matter and if it were should not the operator/owner be allowed to determine that.

A lengthy discussion followed by the Board Members and Staff concerning the cost of using an inverter or generator, possible health hazards if the ice cream melts, ensuring that the trucks meet all air quality standards, the possibility of installing a data logger and perhaps grandfathering in the existing vehicles and companies and making newcomers comply.

*Member Colquitt moved to push the compliance date to December 31, 2004. In the meantime staff was directed to collect the necessary national and local data and to work with the industry to determine whether the state regulations need to be changed or enforced. Motion was seconded by Member Crowley and carried unanimously.*

#### **IV. CITIZEN PARTICIPATION**

Citizen participation is a period devoted to comments by the general public about matters relevant to the Board's jurisdiction. Items raised under this portion of the Agenda cannot be acted upon by the Board of Health until the notice provisions of Nevada's Open Meeting Law has been complied with. Therefore, no vote may be taken on a matter not listed on the posted agenda and any action on such items will have to be considered at a later meeting.

Chairman Reese asked if any member of public wished to be heard. There was no response.

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

Dr. Kwalick stated that the Great Basin Public Health Leadership Institute which is a program between Utah and Nevada to train public health leaders had its first class from May 16-19, 2004 with 36 participants. Sixteen to 18 of the participants were from Nevada with the rest from Utah.

The Citizen's Task Force on Trauma continues to meet. Staff has been and will continue to provide Board Members with all draft reports as they become available. There are some recommendations from the American College of Surgeons consultation visit that was held May 16-19, and also the conclusions of the Abaris report that will be available for review.

The next meeting of the Citizen's Trauma Task Force is June 7th, and Dr. Robert Mackersie from the American College of Surgeons will be available. That meeting will be from 12:00 - 4:00 p.m. in the Clemens Room. Lunch will be served and Dr. Kwalick invited Board Members to come and hear what the College of Surgeons team is recommending. There is another meeting that is scheduled for 14<sup>th</sup> of June for the task force to continue their deliberations and come up with a report for the BOH for the June 24<sup>th</sup> meeting. Staff will get that information to the Board Members beforehand to allow for review prior to the June 24<sup>th</sup> meeting and when the Board will decide whether recommendations are ready to be submitted to the State Division of Health, the designating authority for Trauma Centers in Nevada.

We are looking forward to developing a comprehensive trauma system in Southern Nevada and in order to do that there has to be a lead agency, there has to be a good governance, there has to be financing to support that system and every emergency and acute care hospital has to be part of that system. The Chairs of the Citizen's Task Force on Trauma are Rose McKinney-James and Bob Forbuss.

Dr. Kwalick introduced Rory Chetelat, Emergency Medical Services (EMS) Manager, to provide an update on the divert status.

Rory Chetelat remarked that EMS patient drop off times at hospitals did not change during April 2004 compared to the April 2003. There has been virtually no change in the number of transports to the hospitals during those two months used for comparison. The times unfortunately did not change but anecdotal feedback from the CEO's on the Facility Advisory Board, the Medical Advisory Board and nurses indicate that they are satisfied with the new no closure procedure. From the EMS side there is a lot of customer satisfaction in that they no longer are being forced to hospitals they do not wish to go to. Staff will continue to monitor the divert status. Both the Abaris group and the American College of Surgeons commented heavily on offload and diversion problems as being a major contributing factor that

needs to be addressed before moving forward with trauma system development. That information is in the summary reports you will be receiving.

**VI. INFORMATIONAL ITEMS**

*Duly Noted*

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

1. Monthly Activity Report, Mid April 2004 -Mid May 2004
2. Financial Data: Revenues and Expenditures for Fund 705 (Operating), 706 (Capital Reserve), and 762 (Liability Reserve) for the Month of April 2004
3. Health Education Monthly Report, April 2004
4. Epidemiology Monthly Report, April 2004
5. Public Information Monthly Report, April 2004
6. Emergency Medical Services April 2004 Minutes
7. Letter From State of Nevada Public Health Preparedness Program Thanking Staff for Participation in the Silver Streak Table Exercise on 4/28-29/04
8. Letter From City of Mesquite Indicating Resignation of Paul Henderson and Appointment of Mary Jo Mattocks to the Board of Health

**B. Environmental Health:**

1. Monthly Activity Report, April 2004

**C. Nursing and Clinics:**

1. Monthly Activity Report, April 2004

**VI. ADJOURNMENT**

There being no further business to come before the Board, Vice-Chairman Christensen adjourned the meeting at 9:19 a.m.

SUBMITTED FOR BOARD APPROVAL

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Donald S. Kwalick, MD, MPH, Chief Health Officer  
Executive Secretary

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