



MINUTES

SOUTHERN NEVADA DISTRICT BOARD OF HEALTH FINANCE COMMITTEE MEETING

May 2, 2022 – 3:00 p.m.

Meeting was conducted via Webex Event

- MEMBERS PRESENT:** Scott Nielson – Chair – At-Large Member, Gaming
Scott Black – Council Member, City of North Las Vegas (*Call-in User 3*)
Olivia Diaz – Council Member, City of Las Vegas
Brian Knudsen – Council Member, City of Las Vegas
Marilyn Kirkpatrick – Commissioner, Clark County
Tick Segerblom – Commissioner, Clark County
- ABSENT:** Bobbette Bond – At-Large Member, Regulated Business/Industry
- ALSO PRESENT:** Dawn Christensen, Alexandria Dazlich, David Dazlich, Cara Evangelista, Tommy Ferraro, Michelle Flater, Dana Gentry, Jill Hinxman, Cassius Lockett, Javier Rivera-Rojas, Alexis Romero, Sabrina Santiago, Jeff Seavey, Brisa Stephani, Virginia Valentine, Susy Vasquez
(In Audience)
- LEGAL COUNSEL:** Heather Anderson-Fintak, General Counsel
- EXECUTIVE SECRETARY:** Fermin Leguen, MD, MPH, District Health Officer
- STAFF:** Tawana Bellamy, Mark Bergtholdt, Andria Cordovez Mulet, Aaron DelCotto, Heather Hanoff, Theresa Ladd, Cassius Lockett, Larry Rogers, Chris Saxton, Herb Sequera, Karla Shoup, Randy Smith, Karen White, Edward Wynder

I. CALL TO ORDER AND ROLL CALL

Chair Nielson called the Finance Committee Meeting to order a 3:03 p.m. Andria Cordovez Mulet, Executive Assistant, administered the roll call and confirmed a quorum was present.

II. PLEDGE OF ALLEGIANCE

- III. FIRST PUBLIC COMMENT:** A period devoted to comments by the general public about those items appearing on the agenda. Comments will be limited to five (5) minutes per speaker. Please clearly state your name and address and spell your last name for the record. If any member of the Board wishes to extend the length of a presentation, this may be done by the Chair or the Board by majority vote.

Brisa Stephani, co-owner of Impact Food Safety and EH Services, representing approximately 2,000 permits in Clark County from small independently owned restaurants to large spectator arenas wished to speak on the impact the proposed 27% increase for EH fees would have on the food industry. We feel it is an excessive request without valid justification and it is not taking into consideration that businesses are barely starting to recover from the COVID shutdowns where they took a massive financial impact. They have operators that barely started recovering in the last 6 months. It would severely impact many facilities with their ability to grow and do business in Las Vegas. They are experiencing new fees in regard to gas, transportation, imports and utilities. The industry is experiencing severe staffing shortages. They've had to increase wages to attract employees. Some operators do events for a living, and the increase would result in minimal profit, if any. Many places rely on conventions and those have not been available for the last 2 years. Any accrued costs would inevitably trickle down to the public, who is also recovering from the pandemic. Also, in Las Vegas the permit fees

are already much more expensive because a facility has to obtain more initial permits. SNHD inspections have significantly higher enforcement rates compared to other jurisdictions. For example, one instance of a violation observed, may be written, as opposed to only writing trending violations. Other counties do not do that. Therefore, operators have no choice, but to split off areas in order to live out compliance with their sister properties. No comparative pricing with other agencies, or similar counties had been done or presented. So, they have taken an example of a two-floor restaurant on the strip and compared it with a facility equivalent in size on Hollywood Boulevard and in Beverly Hills, which is LA County and with Phoenix and Maricopa County. SNHD current fees are about \$5,000, which is 38% higher than LA County, where their fees are around \$3,000 and SNHD is 55% higher than Maricopa County, where their fees are around \$2,300. Ms. Stephani wanted to explain the hourly rate of Inspector time to add some context. The current hourly rate of inspector time is \$118. Using the previous example of the operator paying about \$5,000 every year in permit fees. That would equate to approximately 43 hours of services. If the restaurant gets two visits a year, including preparation and driving, that would equate to about 10 hours, which was how much time it would take on average. We did not include time used for downgrades because those fees have already increased back in 2019 to account for that time. So, if 10 hours was used for inspection time than what do the other 33 hours per year go to; was it 33 hours of administrative costs? And now, on top of this, a fee increase was being proposed. As you can see, we already are paying an extremely high amount for these permits. In addition, the food regulations are in the process of being updated and that will add unforeseen cost to industry to keep compliance. The fee increase had been quickly proposed with the goal of implementation in a couple of months being July 1st. However, most of the budgets for industry were done in the last quarter of last year. This would put an additional strain on the industry. Overall, although we have a great appreciation for the EH program and are open to a fee increase, we must oppose such a high increase of 27% without sufficient justification and transparency for its need and allocation of profits. It is challenging to make comments on proposed solutions to support a fee increase when no detailed budget information had been provided. Like, what do you want to do with the money? What are the areas what the problems lacking funding? Which mandates have not been met? All statements have been vague and there are no details on any of this. Last month it was 29% proposed fee increase and now it is 27%. So, was that changed based on the business impact study or was that 29% originally not accurate? However, we do recommend that SNHD review their budget and proposed targeted fee increases for areas where there is need or at minimum allow for the businesses that will be impacted ample time to openly discuss, ask questions and have a two-sided conversation as partners for solutions. Thank you.

Cara Evangelista, co-owner of the health department consultant company with Brisa Stephani and we are also former inspectors, and will go over several concerns we, and our clients, have on the 29% fee increase and the 1% to 3% automatic increase in fees. First, I have been attending Board of Health and SNHD meetings since 2010, including many past fee raise meetings. In the past, SNHD has had multiple public workshops and answered questions from the public and had financial documents when attempting to raise fees. For these 2022 proposed fee raises there was only one public workshop. No questions from the public were allowed to be asked and we were provided no financials and public comment was limited to 5 minutes. Also, in the meeting minutes from the April 7th public workshop meeting were not placed in the package to the Board of Health for today or tomorrow's meeting, leaving out our business impact comments and many others who spoke that day. The biggest issue which many people commented on at the April 7th business impact meeting, is that SNHD has provided no financial documentation for review and the request for 29% fee increase and annual increase. There is no budget, no review of where the money will be spent, there is not even a breakdown of the revenue and expenditures per department inside of EH. As many business owners have stated to us, how can I comment on these fee raises when there are no financials. During the 2017 and 2019 years, SNHD attempted to get a roughly 40% increase and a 20% increase across the board. In both 2017 and 2019, the breakdown of the financials could not justify the across-the-board increase on all fees. Just some of the current financial information that has not been presented by SNHD today in 2022, that argues against the fee raises are that SNHD fees are already extremely high, higher than Hollywood Boulevard and Beverly Hills. Many of the inspectors are brand new decreasing significantly the average salary being paid out in EH. During COVID many employees now work from home decreasing overhead costs. In 2019, there was a fee increase that doubled the downgrade closures, approximately 100% to cover all inspector time and problem facilities. We are asking for full financial disclosure from SNHD to justify the fee raises. Ms. Evangelista commented on the small amount of relevant information provided today

in the 34-page PowerPoint. On page 13, as SNHD states, it is not financially self-sufficient. We have spoken on this through the years. According to the NRS 439.360, county board of health powers, number 5, Ms. Evangelista paraphrased, permit fees must be for the sole purpose of defraying the costs and expenses of the procedures for issuing licenses and permits, and investigations related thereto, and not for the purpose of general revenue. EH will never be a self-sufficient program because they have programs with no permits attached to them. Also, EH has stated that they want an illegal vending program in tomorrow's presentation. Are tattoo parlor and pool owners now expected to pay increased fees to cover an illegal vending office? This is not allowed as one example. This is not allowed per NRS 439.360, number 5. Slide 13 also states services and staff have been adversely impacted and mandates are not being met. Is this a state law mandate or an internal policy put out by management that are not being met? We are asking for details. Additionally slide 14, 15 and 16 show the only financials provided with only revenue expenditures numbers for a couple of years. Slide 14 and 16 show FY21 revenue as \$20.7M but slide 15 shows FY21 at \$18.7M revenue. Ms. Evangelista wanted to point out with these limited numbers, and she doesn't even understand what they mean; they are not the same. Also, as an example of the SNHD financials not always making sense, in 2019 SNHD stated in writing that the deficit in 2019, without the 20% fee increase, would be \$3.1M. Now on slide 16, it shows the actual deficit was \$250,000. Is it a \$2.9M different on a \$20M budget from just a couple of years ago? This is an example of why business owners would like to have full financial disclosure. Overall, they were asking for financial transparency and for SNHD to work with industry. Fees, especially restaurant fees, that are extremely high and look at targeted fees. Lasty, Ms. Evangelista wanted to state as a business owner, if she walked into an investor office and asked for \$5M annual increase for my business, she would have to provide budget and financial plan, and other financial information, and not just expenditure and revenue number. She stated she would not even get a meeting with an investor if she did not have a full financial package put together. She believed that other government agencies do also have full financial packages put together when asking for increases in money and so we are just asking for this. Thank you.

Susy Vasquez, Executive Director of the Nevada State Apartment Association, wanted to comment after the presentation because maybe a number of the items and concerns that they had have with our swimming pool permits may be addressed in the presentation. They are concerned about the increase also. Ms. Vasquez was not clear as to when the increase would be effective. They have budgets as other companies do and was curious as to when those increases would be put in place. Again, Ms. Vasquez thought most of her questions may be answered with the presentation. However, she wanted to clarify that an increase in swimming pool fees of 27% was a bit excessive, but again, without context. Ms. Vasquez requested as to the insight as to why the fee had to be increased. She stated that it was challenging to be able to comment at this time but appreciated this meeting and looked forward to hopefully having some more conversation, if at all possible. Thank you so much.

Virginia Valentine, President of the Nevada Resort Association, mentioned a few concerns regarding the proposal to increase Environmental Health Division fees by 27% on July 1st of this year and by up to 3% annually beginning on July 1st, 2023. The hospitality industry is still recovering, gaming revenues are up but meetings, conventions, airlift, and international travel have not completely recovered to pre-pandemic levels. Occupancy is below the 2019 levels. Midweek occupancy remain soft as meeting and convention business continues to recovery and we are all dealing with the worst inflation in four decades, increasing gas prices, which impact the cost of transportation of goods and people and supply chain issues. We are also experiencing labor shortages, which have impacted hours of operation capacities for some restaurants. And we are still incurring the cost of COVID regulations. Ms. Valentine had an opportunity to read through the comments on the BIS. There was a reoccurring theme about the cumulative impact of fee increases and increase cost. I've heard some say that this isn't a big increase, but we ask that you consider the cumulative impacts of a lot of increases going into effect on July 1st. Solid waste disposal rates will increase. Minimum wage will increase creating upward pressure on all job classes. Water rates will increase. Sewer rates will increase. Natural gas rates have increased and the PUCN is considering rate increases proposed by Nevada ENG as a result of new mandates approved in the 2021 session. We have participated in several rate increase stakeholder meetings over the past decade, and nearly every rate increase proposal comes with rate comparison and similar communities. Some of these rate increases, like the SNWA include consideration for catching up. In that case rate increases were spread over a number of years. The SNWA agreed to public accountability and transparency at periodic levels to check-in on the performance of the increased rates. We have

reservations about mandatory and automatic annual indexing even when colored with a floor and a ceiling. Today, we recognize that the vital importance of the role that EH fills and public safety and health and we don't object paying a fee for service. We are not questioning the importance of enforcement of illegal vendors or illegal dumping of waste. These activities should not be funded or subsidized by fees paid only by certain regulated businesses. Several recommendations for changes to the fee structure were adopted by the Board of Health in 2019. We appreciate that Environmental Health has removed vector monitoring from the cost of EH and that the program, that benefits all of Clark County residents, will no longer be funded by industry specific fees. Other recommendations have not been implemented and those should be considered before increasing fees. A fee for service sometimes called an enterprise fund is not indexed, but instead fees are transparently determined based on actual cost and expenses. Indexing skips the process of accounting for all actual expenses and revenue that should be used to determine the true cost of permitting and inspections. This raises serious equity concerns when a subset of businesses is held to a fee for service standard, while the true cost of providing services to the same are at best ambiguous. A fee for service should be the cost of providing that service and should not be a vehicle for funding activities unrelated to that service. As we have previously commented, questions linger about cost allocation to EH division. What cost are allocated? Do all departments have an allocation? Should there be an allocation to cover the non-fee producing activities of EH. Additionally, as our understanding that the Environmental Health Division will soon initiate proceedings to update the local food code, which may include additional fee-based requirements, this may result in new plan review and inspection fees. The cost of such changes are unknown at this time, but should be understood fully by Environmental Health and industry before further increases are considered. In summary, an increase of 27% is too much to absorb in a single step. Especially why the industry is still recovering to be very clear. We are not opposed to reasonable fees for service. However, fees should cover the costs of providing the service. We ask that you provide additional information on the cost of non-revenue generating activities, the cost allocation and fee comparisons to other jurisdictions. Also, a one-time 27% increase does not account for the unknown costs regulated business that may come about as a result of the comprehensive update to the food code. Ms. Valentine believed it would be prudent to phase-in a fee increase, while EH contemplates these updates. Lastly, and more important, we ask you not to approve the automatic indexing at this time, so that further consideration of the underlying fee for service model and equity concerns can be further evaluated and addressed. There is time to do this since under the proposal put forward today, the first annual automatic increase would not occur until July 1st, 2023. We appreciate the important work that EH does in the community, and we value our longstanding partnership with the Southern Nevada Health District. Thank you for your perspectives of this matter.

Jeff Seavey commented that he could not agree more with all of the previous speakers that have illustrated the industries concerns. Mr. Seavey stated that he participated in a lot of the workshop meetings in the previous years and thought as they worked through were able to find some solutions to various areas but also revealed other areas of concern. Mr. Seavey thought there was still a lingering concern about the blanket numbers and how effective those would be. He would encourage that we go back to that format that was instituted previously of workshopping this, making the relevant data available for review and ensuring that whatever increases were implemented, were targeted and that they were effective and meaningful in the areas that they needed to be. He stated that the Committee heard from everybody in several meetings that businesses are facing the challenges of inflation, transportation costs and wage increases, and all of those other things that affect their expenses and then there was also impact to their revenue streams. Mr. Seavey suggested to look at the health enforcement space and the requirements for SB4, and the new regulations that have had to be enforced by the Health District. He stated that it was not just the fees and the fee increases that were on the table here. They are investing a considerable amount of money in the health and wellbeing of their customers and their employees, and the fee increases are just another additional costs that businesses have incurred over the last couple of years. He asked for consideration and to look at the totality of their investment in the health space as well, in addition to the expense increases and revenue decreases that are still in effect as a result of the volatility of the last couple of years. Thank you for your time and attention.

Seeing no one further, the Chair closed this portion of the meeting.

IV. ADOPTION OF THE MAY 2, 2022 MEETING AGENDA (for possible action)

A motion was made by Member Knudsen, seconded by Member Black and carried unanimously to approve the May 2, 2022 Agenda as presented.

V. REPORT / DISCUSSION / ACTION

1. **Approve Finance Committee Meeting Minutes – March 21, 2022**; direct staff accordingly or take other action as deemed necessary *(for possible action)*

A motion was made by Member Knudsen, seconded by Member Kirkpatrick and carried unanimously to approve the March 21, 2022 Finance Committee Minutes, as presented.

2. **Receive and Discuss Environmental Health Fees Increase and Business Impact Statement and Approve Recommendations to the Board of Health on May 3, 2022**; direct staff accordingly or take other action as deemed necessary *(for possible action)*

Chris Saxton, Director of Environmental Health, presented a brief overview of the Environmental Health Division and the various programs, along with a history of fee increases, the last being in 2009. Mr. Saxton advised that initially a 29% fee increase was being proposed, however, has been reduced to 27%, following industry feedback and the removal of the vector program in the increase. Mr. Saxton provided a summary of the responses received from the Business Impact Survey. Mr. Saxton outlined that staff recommendation was for a 27% overall fee increase, along with an annual CPI increase with a 1% floor and a 3% ceiling.

Member Kirkpatrick stated that increases continue to be pushed and now nobody wants a fee increase. She further stated that the Health District does so much more now, and it came to light during COVID, and requested that we showcase all the things that we do. Member Kirkpatrick stated that 27% is a lot and whether there was a way to phase it in, but the Health District could no longer put it off.

Member Knudsen had two inquiries: (i) the impacts of phasing in the increase and (ii) the rate comparisons. Mr. Saxton advised that the phasing in was looked at in the survey and was possible, but the issue was not being able to hire staff for another year. Mr. Saxton further advised that, regarding the rate comparison, they looked at other communities, some of which are subsidized by their state for their Environmental Health programs. Mr. Saxton suggesting looking at the hourly rate, which his \$118 at the Health District; Washoe County was at \$194, King County in Washington, Seattle was at \$229, and LA County was from \$148-\$296. Mr. Saxton advised that the hourly rate was set back in 2009.

Member Black stated that every organization was feeling the fiscal impact of inflation and supply chain issues, including the Health District. Further, from the presentation, it appears that the increases would be between \$100-\$400, however, during the Public Comment there was reference to a \$5,000 permit. Mr. Saxton advised that he believed the reference was to a resort or a large property that would have a lot of permits, which would be a unique example. Member Black inquired what portion of the 27% increase would be needed to make Environmental Health whole, and Mr. Saxton advised that the entire 27% was required to decrease the deficit and hire the additional staff needed. Member Black suggested that if the Board of Health would contemplate a phase-in of the fee increase, what percentage of the 27% would be able to fund the activities required and meet the needs of the community, and what would be for future growth and development. Member Kirkpatrick cautioned about a phase-in option as it takes time to hire staff, and the community continues to grow. If a phase-in option is accepted, then the Board of Health must be mindful that the Health District would not see revenue until next July.

Member Nielson recalled the Summer of 2019 when a committee was constituted to determine recommendations, that were adopted by the Board of Health in June 2019. Member Nielson stated

that some of the recommendations have now been brought back, for example, no transparency in the cost of a service and the fee being charged for that service. Further, Member Nielson stated that several recommendations identified were ways that the Environmental Health Division could raise fees, such as charging for new events and expedited fees for service. In 2019, there was a recommendation for the next legislative session to increase the tire fee. With respect to the inflationary increase, Member Nielson stated that it should not be automatic due to the need to revisit the earlier recommendations.

Dr. Leguen advised that, after the 2019 meeting, staff was asked to produce information in response to the recommendations. Staff spent more than a year trying to gather the information. With respect to the cost-of-living increase, Dr. Leguen stated that the ceiling of 3% and the floor of 1% is something that is applied in multiple jurisdictions and considers what is happening in the community. Dr. Leguen stated that Washoe County implemented the automatic increase to avoid having the discussion every year, which would not be productive.

Member Diaz understood the desire to phase-in and did not think that the 27% should be reduced. She stated that it was the prudent thing to do as the Health District could not be expected to do more with less.

A motion was made by Member Kirkpatrick seconded by Member Black and carried by a vote of 5-1 to accept the Business Impact Statement related to the Environmental Health Fee Increase and to approve a recommendation to the Board of Health to (i) accept the Business Impact Statement, (2) adopt the 27% Environmental Health fee increase with a two-payment process, and (iii) reconsider the automatic increase in January 2023.

<u>AYES</u>	<u>NAYS</u>
1. Black	1. Nielson
2. Diaz	
3. Kirkpatrick	
4. Knudsen	
5. Segerblom	

- VI. SECOND PUBLIC COMMENT:** 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. Comments will be limited to five (5) minutes per speaker. If any member of the Board wishes to extend the length of a presentation, this may be done by the Chair or the Board by majority vote.

David Dazlich, Director of Government Affairs for the Vegas Chamber, advised that the Vegas Chamber had concerns about the immediate implementation of the full 27% and would urge consideration of a phased approach. Additionally, they had concerns about an automatic CPI escalator. It is their belief that that should be reviewed and voted on by the Board of Health as they come up. Finally, they would like to echo the concerns about the format of this Finance Committee meeting and would urge that such meetings, especially in relation to fee increases, that they be allowed in-person to make comments. Thank you for your time.

Alexandria Dazlich, on behalf of the Nevada Restaurant Association, echoed the comments already raised. Ms. Dazlich stated that they found that the 27% increase in fee proposals with the 1% to 3% annual rate is not justified due to the lack of individual line items and disclosure of funds. They also believed that it would economically impact their small independent restaurants. They also thought that tying the proposed fee schedule to current inflation due to high inflationary period, would have an extreme and immediate negative effect on the restaurant industry as well as the rest of the business community at large. Many of their operators have reported that while their sales are up, their cash flow is decreased. They appreciated the Health District's willingness for feedback and looked forward to finding some sort of phased-in approach.

Cara Evangelista, on behalf of Impact Food Safety and Environmental Health, stated that Environmental Health and the inspectors were doing a good job. They were very helpful during COVID, but this

discussion here was about Environmental Health fee raises attached to permits. We are asking what any other businessperson would have to provide, which is financial documentation, and these are part of the issues of why there has not been fee raises in previous years, because the financial documentation could not be provided. Ms. Evangelista was a health inspector for 8 years and advised that the 2004 and 2007 fee raises at 30% were because permits were about \$25, back in the day. So, there were no costs being covered. This was where it became a self-sufficient department because there were pretty much no fees being collected back then. But what happened was that the fees were so high that the per hour rate goes up and down. Ms. Evangelista provided the comment about a strip restaurant as an example of \$5,000 that had 11 permits. She wanted to explain that a dry storage permit was \$250 and a kitchen permit was \$550, so if there is a closet with liquor stored in it, then they are paying half for a closet with liquor stored in it than an actual kitchen permit. These costs travel up to large facilities and down to little facilities in the per hour rate of \$118, which is what the per hour rate was right now. As an example of the same restaurant, inspectors spent maybe 10 hours there, but they are paying for 43 hours and if divided by \$150 per hour rate for inspector, it's 33 hours, where the inspector was only spending 10 hours in the facility. With \$200, it was 23 hours, and the inspector was only spending 10 hours in a facility. So even if it went up to \$200 per hour, they were still paying for 23 hours of inspector time and that they spent maybe 10 hours. A large facility on the strip was paying \$150,000 in permit fees already, a casino. That equals 1.5 full-time employees, 8 hours a day, 5 days a week. An inspector in that large facility may only be in there a couple of times per week. So at least with restaurant permits, they are already paying large amounts because of how the permits are broken out. Ms. Evangelista was not sure about tattoo schools, pools, etc. because they are one permit facilities. How the inspections were here versus LA County, Ms. Evangelista stated that they almost had to split the permits but sometimes they have no choice because there is a closet with liquor stored in it that is behind the kitchen. Ms. Evangelista stated that they were asking what every other business owner would have to provide, which is a basic breakdown of expenditures and then target those areas that were needing an increase. Restaurants right now were paying more than Hollywood Boulevard and Beverly Hills and California was one of the most regulated states and we were so far above that already. They have clients in California and were pulling the number in California. Ms. Evangelista stated that they were not saying that fee raises were not needed or that EH was doing a bad job, but that EH was based on permits for the operation of that permit and even if they do extra, it is still not in the operation in that permit and that is per NRS. Thank you for your time.

Seeing no one further, the Chair closed this portion of the meeting.

VII. ADJOURNMENT

The Chair adjourned the meeting at 4:21 p.m.

Fermin Leguen, MD, MPH
District Health Officer/Executive Secretary

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