

MINUTES

Southern Nevada District Board of Health Meeting
333 S. Valley View Boulevard, Las Vegas, Nevada 89107
Conference Rooms 2-2a

Thursday, February 28, 2013 - 8:30 A.M.

Mary Beth Scow, Chair, called the meeting of the Southern Nevada District Board of Health to order at 8:33 a.m. and led the Pledge of Allegiance. Annette Bradley, Legal Counsel, confirmed the meeting had been noticed in accordance with Nevada's Open Meeting Law.

Annette Bradley noted a quorum was present at the start of the meeting with Members Beers, Crowley, Giunchigliani, Jones, Litman, Nelson, Noonan, Scow, Tarkanian, and Woodbury seated.

BOARD MEMBERS: Mary Beth Scow – Chair, Commissioner, Clark County
(Present) Sam Bateman – Councilmember, City of Henderson
Bob Beers – Councilmember, City of Las Vegas
Susan Crowley – At-Large Member, Environmental Specialist
Chris Giunchigliani - Commissioner, Clark County
Timothy Jones – At-Large Member, Regulated Business/Industry
Allan Litman – Councilmember, City of Mesquite
Marietta Nelson – At-Large Member, Physician
Frank Nemec – At-Large Member, Physician
Bill Noonan – At-Large Member, Gaming
Kenneth Osgood, MD, MPH - Alternate At-Large Member, Physician
Lois Tarkanian, Councilmember, City of Las Vegas
Lori Winchell - At-Large Member, Registered Nurse
Anita Wood - Councilmember, City of North Las Vegas
Rod Woodbury – Councilmember, City of Boulder City

(Absent) None

ALSO PRESENT:
(In Audience) Doug Dobyne – Alternate At-Large Member, Regulated Business/Industry
Kathleen Peterson–Alternate At-Large Member, Environmental Health Specialist

LEGAL COUNSEL: Annette Bradley, Esq.

INTERIM EXECUTIVE SECRETARY: John Middaugh, M.D.

STAFF: Heather Anderson-Fintak, Kelly Brinkhus, Dennis Campbell, Rory Chetelat, Richard Cichy, Ray Chua, Norine Clark, Dr. Thomas Coleman, Margarita DeSantos, Cara Evangelista, Arta Faraday, Lorraine Forston, Jason Garcia, Bob Gunnoe, Rose Henderson, Julie Hurd, Amy Irani, Susan LaBay, Felix Landin, Jim Osti. Mike Palmer, Brian Riddle, Glenn Savage, Jennifer Sizemore, Bonnie Sorenson, Ellen Spears, Leo Vega, Dr. Nancy Williams; Valery Klaric and Jacqueline Wells, Recording Secretaries.

PUBLIC ATTENDANCE:

<u>NAME</u>	<u>REPRESENTING</u>
Ben Howell	Cowabunga Bay
Takuya Ohki	Wet 'N Wild Las Vegas
Rick Bechumeck	Wet 'N Wild Las Vegas
Petya Balovo	Balovo Engineering
Ann Markle	Public
Carl Markle	Public
Marv Howell	Cowabunga Bay
Shane Huish	Cowabunga Bay
David Lee	Secured Fibers
Dale Way	NLVFD
Diana Taylor	CCSD (for Dwight Jones)

I. PUBLIC COMMENT

Public comment is a period devoted to comments by the general public on items listed on the Agenda. All comments are limited to five (5) minutes. The Chair asked if anyone wished to address the Board pertaining to items listed on the Agenda.

Cara Evangelista, VP, SEIU, SNHD, commented that she attended the recent CHO Succession Committee meeting. Ms. Evangelista thanked the BOH for Dr. Middaugh. The employees are happy, morale is up, and the District is in order and relationships good. Dr. Middaugh is accessible, supportive and available. The recent hire of Elaine Glaser is good and she hopes to continue the good relationships. In regard to the new CHO, the employees are afraid of new person. The events of the last administration are still fresh and fear that a new CHO may dissolve the current positive working relationships. Current employee, Dr. Tom Coleman, knows the history of the District as he went through it. Dr. Coleman is in-house and works closely with the employees and is very well respected. It was Dr. Middaugh who brought in Dr. Coleman, not the former administration. Cara recommends Dr. Coleman as CHO. She understands that the Board can appoint someone new, however, she thinks that it is not so common for employees to support upper management. Ms. Evangelista thinks that Dr. Coleman will make a great CHO and urges the BOH to consider Dr. Coleman for the position of CHO. Ms. Evangelista noted that since the changeover of the old administration, no negative issues have been brought forward to the Board.

Norine Clark, Chief Steward, SNHD, spoke on behalf of the employees in regard to the successor for CHO. The employees have been through a lot of transitions with the former administration. Ms. Clark attended the CHO Succession meeting and was disappointed with the feedback as one member stated that he really didn't know Dr. Coleman. This comment was disheartening because someone on the Board working in conjunction with Dr. Middaugh should take notice and know. The Board should look into Dr. Coleman's qualifications as he is doing a great job and everyone speaks highly of him. The turnaround of the District has been significant. The selection of Dr. Coleman would be an Ideal situation, a win-win. Dr. Coleman can walk in behind Dr. Middaugh without a long transition period as he knows how the place is run and the expectations and needs of the District.

Seeing no one else, the Chair closed public comment.

II. ADOPTION OF THE FEBRUARY 28, 2013 AGENDA

Motion made by Member Giunchigliani seconded by Member Crowley and carried unanimously to adopt the February 28, 2013 Board of Health Meeting Agenda.

III. **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: January 24, 2013**

2. **Petition 03-13**: Approval of Interlocal Agreement between Clark County School District and Southern Nevada Health District to provide services to support the Clark County Schools – Community Transformation Grant awarded to CCSD by the Centers for Disease Control and Prevention. **(for possible action)**

A motion was made by Member Litman seconded by Member Crowley and carried unanimously to approve the Consent Agenda as presented.

- #### IV. **PUBLIC HEARING / ACTION**: Members of the public are allowed to speak on Public Hearing/ Action items after the Board's discussion and prior to their vote. Each speaker will be given five (5) minutes to address the Board on the pending topic. No person may yield his or her time to another person. In those situations where large groups of people desire to address the Board on the same matter, the Chair may request that those groups select only one or two speakers from the group to address the Board on behalf of the group. Once the public hearing is closed, no additional public comment will be accepted.

There were no items on the agenda for Public Hearing/Action portion of the meeting.

V. **REPORT/DISCUSSION/ACTION**

1. **PETITION #-01-13**: Approve the Revocation of the Southern Nevada District Board of Health permit to operate a solid waste management facility, Permit RC011-XXX-01, in the case of Secured Fibres, located at 4751 Vandenberg Drive (APN 140-06-101-002), North Las Vegas, Nevada 89081; direct staff accordingly or take other action as deemed necessary. **(for possible action)**

Dennis Campbell, Environmental Health Manager, referenced Nevada Administrative Code 444.643 as:

- (5): **Permit to operate disposal site: Issuance; revocation or suspension; requirements for transfer to subsequent owner or operator.** A permit to operate a disposal site issued by a solid waste management authority;
5. May be revoked or suspended if written notice is given by the solid waste management authority and the disposal site does not remain in compliance with the applicable statutes and regulations.

Mr. Campbell continued, stating that Secured Fibres initially received approval for a permit to operate a Recycling Center at 4751 Vandenberg Drive (APN 140-06-101-002), North Las Vegas, Nevada, 89081 on April 24, 2008 from the Southern Nevada District Board of Health. At the time of approval, Secured Fibres agreed to the following conditions:

- I. Operations must be consistent with the operations plan and the report of design submitted in the Application for Approval to Operate a Recycling Center, which was received on April 16, 2007, as amended.

- II. Operations must be at all times in compliance with the latest revision of the Solid Waste Management Authority Regulations Governing Recycling Centers and all other applicable laws, statutes and regulations.
- III. Secured Fibres must maintain approvals from the City of North Las Vegas for applicable land use(s) and maintain applicable business license(s).

As part of the application for approval to operate a recycling center, Section 11, a financial assurance mechanism, i.e., surety bond must be obtained and posted with the Solid Waste Management Authority as a condition of the issuance of a recycling center permit.

Secured Fibres originally submitted a Certificate of Deposit (CD) in the amount of \$25,330.00 as its financial assurance mechanism, which was accepted during the permitting process. The CD was issued by Silver State Bank on October 3, 2007. Silver State Bank was closed by the FDIC in September, 2008 and its deposits were taken over by Nevada State Bank. At that time, the original CD ceased being valid without acknowledgement from the new bank of its validity.

Secured Fibres has an extensive non-compliance history. On February 10, 2011, the SNHD cited Secured Fibres with a Notice of Violation of Solid Waste Management Authority Regulations (SWMAR) governing recycling centers, Section 13.3. It was found in violation of operating a recycling center in violation of approved plan of design, operating plan and conditions of their permit by using unapproved sorting equipment consisting of a two-story sorting line, by using an unapproved process and location to store and sort solid waste and by sorting solid waste outside the facility walls; and SWMAR governing recycling centers, Section 8.6(a) for failing to collect and properly dispose of all scattered paper and light weight debris found in the area of the facility. Secured Fibres was found in violation of eight (8) counts of SWMAR Section 13.3 and assessed a penalty of \$8,000.00 and found in violation of four (4) counts of SWMAR Section 8.6(a) and assessed a penalty of \$12,000.00. Secured Fibres was also directed to cease and desist operation of unapproved equipment at this location and to cease and desist storing and processing solid waste outside of the 2.4 acre area approved for operations.

On August 17, 2011, Secured Fibres was also cited for failure to comply with the Order issued by the Solid Waste Management Authority Hearing Officer on February 10, 2012, directing Secured Fibres, Inc. to cease and desist operation of unapproved equipment and cease and desist storing and processing solid waste outside of the 2.4 acre area approved for operations (SWMAR governing Hearing Officer Process Section 8) and imposed a penalty of \$500.00. In addition, Secured Fibres was found in violation of failure to comply with SWMAR Section 8.6(a) and imposed a penalty of 1,500.00 and in violation of three (3) counts of SWMAR Section 13.3(a, b, c) and imposed a penalty of \$4,500.00. Secured Fibres was further directed to cease and desist operation of unapproved equipment at this location, to cease and desist storing and processing solid waste outside of the 2.4 acre area approved for operations, and to submit an application to modify the permit to operate a recycling center with newly installed equipment and processes.

In October, 2011, December, 2011, and again in April, 2012, SNHD Solid Waste Plan Review staff requested that Secured Fibres provide the delinquent application updates, including that financial assurance. As Secured Fibres was not cooperating nor providing the required regulatory submittals, an Administrative Order was sent to Secured Fibres on July 30, 2012, directing that the recycling center cease and desist operating until proof of financial assurance could be obtained and

submitted. On October 22, 2012, SNHD requested again that Secured Fibres provide documentation from Nevada State Bank of the CD's validity, and as a result of not receiving any documentation; Secured Fibres was inspected was found to be operating their recycling center facility in non-compliance with the Order and without proof of financial assurance. This resulted in SNHD sending a Permit Suspension for Cause Pending Permanent Revocation Notice to Secured Fibres on November 7, 2012.

As a result of the Notice to Suspend on November 13, 2012, James Kaup of Secured Fibres submitted a written request for a hearing pursuant to Solid Waste Management Authority Regulations governing Recycling Centers, Section 13.6-7. Mr. Kaup argued that the new account was in the SNHD's name alone.

The matter was calendared for the next available administrative hearing date to wit: December 13, 2012. At the Administrative Hearing, the SNHD presented its case while Secured Fibres presented their defense for lack of financial assurance. Eddie Ridenour, SNHD Environmental Health Supervisor, provided testimony detailing regulatory requirement for financial assurance and history of non-compliance. Arta Faraday, SNHD Senior Environmental Health Specialist, testified that he had gone into a branch of Nevada State Bank with the Silver State Bank account number and financial assurance letter. The Nevada State Bank staff informed Mr. Faraday that no CD existed in SNHD's name or in connection with Secured Fibres. James Kaup of Secured Fibres testified that he was still working with Nevada State Bank and the FDIC to find the CD. The Hearing Officer issued a ruling and a Hearing Officer Order, in which the Notice to Suspend was upheld and Secured Fibres was to cease and desist operating until such time that it could provide the financial assurance required by the regulations. The Order also stated that Secured Fibres was to provided, within 5 days, proof that there was an investigation into the whereabouts of the CD.

On December 20, 2012, SNHD received a copy of a letter Nevada State Bank sent to Secured Fibres stating that the CD in question does not exist.

SNHD staff continued to monitor Secured Fibres after the Notice to Suspend was upheld by the Hearing Officer. On December 14, 2012, SNHD staff returned to Secured Fibres and found the recycling center still operating without providing the required financial assurance documentation despite the Hearing Officer Order from the previous day's hearing. A subsequent survey conducted by SNHD on January 3, 2013, establishes that Secured Fibres continues to operate.

On January 3, 2013, the City of North Las Vegas revoked Secure Fibres business license.

Financial assurance is not only a requirement in the recycling center regulations; it is an important aspect of operations. Due to numerous fires at Secured Fibres caused by its poor business practices, the taxpayers and the surrounding private businesses could be financially impacted if another such fire gets out of control. On April 14, 2008, March 2, 2012 and November 28, 2012, there were fire incidents at Secured Fibres facility. SNHD responded to the April 15, 2008, March 2, 2012 and November 28, 2012 incidences. The City of North Las Vegas Fire Department responded to all three incidents. During these fire incidences, solid waste and combustible materials (i.e., recyclable paper, cardboard, pallets, conex filled with computer equipment) caught on fire and burned for hours. The fire in 2008 resulted from an unspecified short circuit arc. Secured Fibres claimed a power pole short circuit. The 2008 incident also resulted in a second alarm the next day for a building fire. The fire in March 2012 lasted several days. Secured Fibres alleged to SNHD

that the March fire resulted when a hot load (incoming recyclables already on fire) that came into the Secure Fibres facility; however, the North Las Vegas Fire Department investigator thought that was unlikely given the evidence and the incident reports documented an unspecified short-circuit and heat source too close to combustibles. Secured Fibres personnel attempted to utilize fire extinguishers, but the wind fanned the fire. There was not only damage to recyclables, but also to the facility. The fire fighters responded the around 10AM, which lasted until 3AM the next day. During the next twenty four hours, the fire department teams were rotated into the incident to address burnt material. The November 2012 fire was responded to around 3PM, which was extinguished around midnight. In addition, the fire caused water to run off the site into the storm drains. Water used to put out the fire ran off the site causing blockage the storm drain resulting in partial flooding of Vandenberg Drive and East Craig Road. No cause for the November 2012 fire was provided by the City of North Las Fire Department at the time of this reporting.

These fires did not seem to directly affect surrounding businesses. However, fire response to these incidences was to not only extinguish the fire at the Secured Fibres recycling center facility but to protect the other exposed buildings immediately to the south and east. Since these fire incidences, the SNHD has been notified by other recycling centers in North Las Vegas that their fire suppressant systems are being scrutinized with greater detail than in the past.

In view of the circumstances, the approval for permits RCOI I-XXX-01, in the case of Secured Fibres located at 4751 Vandenberg Drive, North Las Vegas, NV 89081, approved on April 24, 2008, must be revoked as the facility is not in compliance with applicable recycling center regulations, Administrative Order and Hearing Officer Order to submit and maintain financial assurance, and no longer has a business licenses from the local jurisdiction. Recycling operations will not be allowed to resume at this location without prior approval of the Southern Nevada Health District.

Member Giunchigliani asked if there was a process issue and stated that it was ridiculous for this issue to go on for two years and added that the District presented a good case.

A motion was made by Member Giunchigliani and seconded by Member Winchell to uphold the revocation.

David Lee, legal counsel for Secured Fibres stated that much of what he heard from Mr. Campbell is new to him as his understanding is there is only the bond issue. Mr. Lee stated that Secured Fibres has been in business for many years and in regard to the violations of various waste management guidelines, many of the deficiencies have been cured. In regard to the fires, Secured Fibres has been financially responsible for all damage and has taken responsibility for all events. Mr. Lee reiterated that his understanding of today's issue is specifically the bond and his client, in response to regulations, took out a \$25,300 bond with Silver State Bank and Silver State Bank was taken over by Nevada State Bank. A formal claim has been made to the FDIC. Secured Fibres is not able to put another \$25,000.00 bond in place and has been working to procure the first bond from the FDIC. The bond could not be taken out by the client the only entity that could collect would be SNHD. Discussions with FDIC representative, Betty Holsten Okaten indicated that most likely the check was sent to SNHD when the account closed. There is no way the client could have taken the money out. If the bond does not exist with the FDIC, then the check was sent to SNHD. Secured Fibres needs time to confirm. If his client is not in the position to confirm though SNHD or get

confirmation from FDIC to insure or replace the bond, Secured Fibres requests 30 days to put a bond in place. They will find a way to put the account in a different bank and resolve the issue with SNHD and/or FDIC. Mr. Lee stated that Secured Fibres did not take the money, the bank closed, and the only two potentials are either the bank has the bond or SNHD has the bond.

Member Noonan asked Mr. Lee why the City of North Las Vegas revoked his client's license. Mr. Lee stated that he was told by his client that it was not an issue and all appropriate licenses are in place.

Member Wood stated that there are two issues, the bond and numerous violations. Mr. Lee stated that his understanding is that all violations been cured, and the only issue that he is aware of is the financial bond issue. Member Woods advised that there are numerous issues and this is not the first time that she has heard of them. Member Wood stated that Secured Fibres has a history of making it right, then six to eight months later, new issues emerge.

Member Wood asked Mr. Lee what his client intended to do to stop continued violations and follow the rules. Mr. Lee stated that his client would do whatever they needed to do. Member Wood stated that the problem is the pervasive attitude of Secured Fibres, which needs to change.

Mr. Lee stated that to his understanding, the violations that existed were in 2011. The original permit was issued 2007 and during a five year period there have been 8-9 violations and the fires. In addition, his client has been under criminal/civil investigation, however, now they are fully licensed, bonded, insured and working to ensure the past issues never happen again and have been cured. Mr. Lee added that his client is in cancer treatment and unable to attend today's meeting. Mr. Lee cannot state what the business intends to do without his client's presence, but he is assured that they will remain in compliance.

Eddie Ridenour, Environmental Health Supervisor, Solid Waste Management, stated that he has been responsible for the inspectors who inspected Secured Fibres over the years. There are outstanding violations since 2011, for example, operating outside the building which required Secured Fibres to come in and modify their permit which they did not do. They received the notice of violation, have been fined and paid the penalty imposed by the Hearing Officer. They came in at one point with an application to modify the permit, but due to the financial assurance issues, the permit has not been modified and they continue to operate in violation of their permit.

Member Bateman asked if the permit of Secured Fibres is revoked today, what the process would be to get their license reinstated. Mr. Campbell stated that Secured Fibres would need to reapply through the plan review process and make sure the specific items are addressed.

Member Bateman stated one of the conditions of operation from 2008 was to have approval from the City of North Las Vegas and he does not know if there is a conditional use permit that also goes along with this particular business, but if it has also been revoked in North Las Vegas they would have to go through the same reinstatement process there. Member Bateman stated that from the testimony today, Secured Fibres has not done things right in modifying their license in the first place. Member Bateman supports Member Giunchigliani's motion.

Mr. Campbell added that at this point, Secured Fibres would have to follow through with a closure plan and reapply for a new permit.

Member Jones asked if there were other unresolved issues than the bond. Mr. Ridenour stated that the original citation and notice of violation for operating outside the building was not in the original approved permit. Secured Fibres operating permit did not authorize outside sorting of recyclables, which has resulted in litter in community. During the inspection, the District required Secured Fibres to come in and modify their application so that the permit could be re-issued for outside operations. To date, Secured Fibres has not received reissuance of permit to the address changes.

Member Crowley asked if the outside activities were acceptable even if Secured Fibres went forward earlier and submitted the appropriate operations plan. Mr. Ridenour stated that Secured Fibres submitted the application once, on which at cursory review found number of outstanding items that required resolution. Secured Fibres was provided line items to address these issues, however, they did not respond.

Member Crowley asked if the activities associated with what Secured Fibres is doing outside of the operations plan are acceptable. Mr. Ridenour stated at the time of application, the activities were acceptable as the City of North Las Vegas granted a variance for the outside activities however, regulatory oversights in jurisdictions may have changed since then in regard to land usage.

Member Giunchigliani stated that the other issues need to go through the application process and the issue today is the license revocation based on the fact that Secured Fibres did not maintain the required Certificate of Deposit. Member Giunchigliani added that Secured Fibres does not need 30 days to find something that was lost in 2011 when Silver State closed down. Member Giunchigliani noted that the two families that own this company apparently have an obligation, they signed an agreement in 2008 and it has not occurred. Subsequent to that, and it sounds they have had ample opportunity to come back and do everything right, but they need to go through their steps. Member Giunchigliani clarified that the motion recommends agreement with the revocation based on the fact that Secured Fibres has not maintained it based on their application and their signed agreement. Secured Fibres can then reapply if they choose to do so as a business.

Member Jones asked if revocation occurs, what steps would be required and the practical affects to close the business. Mr. Ridenour stated that the closure plan identified in the operations plan would be implemented. After that, Secured Fibres would need go to go through land use in North Las Vegas then submit an application back to Solid Waste for review and approval.

Member Jones asked what type of clean up would be involved. Mr. Ridenour stated that the closure plan would involve clean up.

Member Jones asked what clean up consisted of. Mr. Ridenour stated that all solid waste recyclable materials would need to be removed from the facility. In addition, the building and other fixtures will need to be cleaned. The equipment will not have to be moved, but the entire site will have to be cleaned up and all material removed. At that point, Secured Fibres can then start the permit process.

Member Jones clarified that if Secured Fibres walked away there was no funding for clean up. Mr. Ridenour advised that is the issue.

Member Giunchigliani pointed out that the Hearing Master's review ordered a cease and desist as of February 10, so they need to be in compliance with that as it is the threshold piece. The bond is there to secure so that the tax payers do not have to pick up the cost.

Member Wood asked Mr. Lee if his client is operating the facility as of today, even though there is a cease and desist order dated February 10. Mr. Lee stated yes, he believes they are operating and based on the conversation with his client yesterday, they have been in contact with Mr. Campbell and the FDIC working feverishly to resolve this issue. Mr. Lee believes that his client is operating under the assumption that they are going to be able to resolve that issue and are working toward compliance. Mr. Lee noted that if Secured Fibres is required to remove all of the recyclables and everything out of the facility in order to close it, likely, it will not reopen.

Member Wood asked Mr. Lee if Secured Fibres is operating outside as of today. Mr. Lee stated that he did not know the answer to that question. Member Wood stated that she is 99.9 % sure that they are operating outside and they are also in violation of the use permit as the City of North Las Vegas does not allow outside operations for this type of recycling facility and this indicates there is more than the bond issue to be resolved. Mr. Lee stated that he believes that his client has secured a variance from the City of North Las Vegas to operate outside and they were in the process of getting the revised permit done, but it was blocked by the same financial bond issue. Mr. Campbell stated that he believes that they did have a variance to operate outside, but the City codes have changed and the District is in the process of re-visiting all recycling facilities in North Las Vegas. Mr. Campbell clarified the latest cease and desist order, issued 12/13/12, was for operating outside, two stories, stacking outside and lack of Certified Deposit.

Member Woodbury referenced NAC 444 as "A permit can be revoked or suspended if written notice is given and the disposal site does not remain in compliance." Member Woodbury confirmed that Mr. Lee is alleging that only the bond issue is today's issue however; there has been discussion in regard to the issues of fire and outside operations. Member Woodbury asked exactly what, if any, are the other non-compliance issues as of today with regard to Secured Fibres. Mr. Ridenour stated that specifically over the inspection period since permitted in 2009 around 2010/2011 it was noticed that Secured Fibres was operating outside the building. The original application approved by the BOH was for inside operations only. When it was noticed that Secured Fibres was operating outside the building, staff spoke to James Camp, one of the managing members for Secured Fibres. Mr. Camp presented a variance that he had applied for through the City of North Las Vegas which authorized him to operate outside of the building. At that time, it was noted in the inspection that his current permit with SNHD through the Solid Waste Management Authority did not specify outside operations. Mr. Camp was told that he was required to come in to the District and apply for a modification to his permit, at which time Solid Waste Plan Review would review the application and a permit would be re-issued if approved. The big issues at hand are operating outside the building with equipment that was not originally listed the application and the lack of a bond. However, a closer look at the application to modify the permit found minor action items in the language that were identified (how are they going to do this, what is the make and model of the equipment, how big is the equipment, what is the processing rate of the equipment) and presented to Secured Fibres. In looking at all of the information that is required, new permit conditions would need to be specified to determine how much paper and plastic that they would be allowed to process and store on the property based on the capacity of the new equipment that was there.

Member Woodbury asked if Secured Fibres was required to submit a permit in order to cure outside operations if they had a variance. Mr. Ridenour stated that Secured Fibres presented a variance in 2010 that they had received from the City of North Las Vegas, but he is not sure that it is still valid at this point or if they would have to go back and reapply.

Member Woodbury asked, in regard to the bond issue, whether it was paid to SNHD or if there is a potential that it is outstanding with the FDIC what if Secured Fibres can go back and prove administratively that exists and we have made a decision to revoke on that basis today. Glenn Savage, Director of Environmental Health, stated that he talked to Legal Counsel, who advised that it had already been confirmed through Administration, no check regarding the Secured Fibres deposit has been received or deposited by SNHD. Mr. Savage is confident that this has not occurred. In the past, the Board has directed staff to insure financial assurance documents are in place when permits are issued because when someone walks away from a property, for instance the incident with ProStar which was over \$300,000 in cleanup, staff then has to go through the court system to try and find assets and people who should be obligated for cleaning up a mess because they did not have the correct financial instruments in place. Financial assurance instruments have been in place in the solid waste arena since 1980. Mr. Savage stated to Mr. Lee that is rumored that Secured Fibres has recently purchased Wolf DropBox, so if assets are available to purchase a new business, why are funds not available to secure a bond of financial assurance for approximately \$25,000 to insure that it is in place in case the business has to close.

Member Woodbury asked if funds were in place at the time the original application was submitted. Mr. Savage stated yes, they did and then things got very complicated within the last couple of years concerning the bank and what happened with the CD. The CD is not just a financial instrument that can be used; it can be cash, insurance premiums, surety bonds or a number of financial instruments. The District has been having discussions with Secured Fibres for many months, and it is disappointing that we are at the midnight hour, and then Mr. Lee, respectfully doing his job, comes in and offers a resolution. Mr. Savage wishes that this conversation had occurred many months ago.

Member Woodbury asked Mr. Savage if the recommendation is suspension or revocation and if suspension is a viable alternative to allow Secured Fibres the opportunity to cure for a period of time. Mr. Savage stated that the Board can make either decision, however his recommendation is revocation based on many months of effort put in with Secured Fibres, trying to protect the community and environment by having a financial assurance mechanism in place. The District has gone through hearings and given them their day in court through the appropriate process and in a sense, pleaded with them through attorneys and staff to come forward and supply the required information. The District is out of options. The Hearing Officer submitted a cease and desist order that is in place at this time, but apparently Secured Fibres continues to operate without recognizing that opinion.

Member Winchell asked how many employees would be affected and what the estimated expense to the taxpayers would be to clean up since there is no bond. Mr. Savage stated that the bond should be about \$25,000.00, which should be enough necessary to clean up. If none is provide, worst case scenario, the facility would close, Secured Fibres could walk away, and the District would be forced to use its' attorney to go before a District court and try to seek assets or other means to get the clean up to occur. If not, the potential is that the District might have to incur that type of clean up. Fortunately with ProStar, someone came in and purchased the property, but their clean up was well over \$300,000.00. Mr. Savage does not know how many people are employed by Secured Fibres.

Member Giunchigliani asked the Chair to call for the question.

Mr. Lee stated that he believes there are about 40 employees. Mr. Lee asked if he could respond further, with permission, and was advised by the Chair that that the question called for and the Board needed to vote.

The motion made by Member Giunchigliani and seconded by Member Winchell to uphold the revocation to approve the Revocation of the Southern Nevada District Board of Health permit to operate a solid waste management facility, Permit RC011-XXX-01, in the case of Secured Fibres, located at 4751 Vandenberg Drive (APN 140-06-101-002), North Las Vegas, Nevada 89081 as presented and carried, opposed by Members Tarkanian and Woodbury.

(Member Giunchigliani left the meeting at 9:34 a.m.)

Chair Scow welcomed Diana Taylor, Director of Health Services for CCSD. On behalf of the Board of Health and SNHD staff, the Chair congratulated Superintendent Jones and all of the involved Clark County School District staff on receipt of the highly competitive Community Transformation Grant (CTG). The Chair added that although we are very disappointed that the Superintendent could not be with us today, we commend his leadership to enable our community to receive this funding. SNHD sincerely appreciates the partnership with CCSD forged through Communities Putting Prevention to Work and looks forward to the continuation of our collective efforts as we work closely together to implement CTG. The purpose of CTG is to increase opportunities to prevent chronic diseases and promote health, a priority of both CCSD and SNHD. One of the key metrics that will be monitored through CTG is student Body Mass Index (BMI). CCSD and SNHD staff have worked together to significantly improve the quality of that data collection and have recently released a baseline report titled "A Review of the Clark County School District Height and Weight Data Collection, 2010-2011 School Year." The Chair thanked Ms. Taylor again for their efforts to secure the CTG funding and for engaging SNHD and other community organizations to improve the health of our students.

- 2. CONSIDER/APPROVE:** Variance Request to Operate a Public Bathing Place not in Compliance with the Nevada Administrative Code (NAC) 444.214.1, NAC 444.214.2, NAC 444.278, NAC 444.133 and NAC 444.134 [Assessor's Parcel Number (APN) 161-35-402-014, 161-35-402-015] Cowabunga Bay Water Park LLC (APN: 176-06-701-003); direct staff accordingly or take other action deemed necessary. **(for possible action)**

Susan LaBay, EH Supervisor for the Aquatic Health program referenced a variance request to provide 20% of the minimum required number of sanitary plumbing facilities and for the ability to eliminate the required four foot wide path around an obstruction on the decks to accommodate ADA requirements and to allow bridges to be slightly skewed from the 90 degree requirements.

Ms. LaBay noted that because NAC Chapter 444 does not specifically take into account waterparks the size and scope of Cowabunga Bay, when determining fixture counts, the code requires an unrealistic and impractical number of fixtures which makes it unfeasible to build and or operate a water park as per the NAC 444. An attempt to comply would cost the waterpark about \$2.5M. Also, the required space to construct buildings to house the fixture count as per NAC 444 is no feasible or realistic to consider. Cowabunga Bay has secured approval for requirements for alternate methods from the Building Department to allow them to go forward with the number of restrooms asked for. The original plan was for two restrooms however, they are providing three separate restroom facilities, strategically placed throughout the park to make restrooms easily accessible to all patrons throughout the park. Included in the requested variance, Cowabunga Bay is providing six unisex family restrooms, which are highly favored by waterpark patrons and allows parents with small children to more conveniently utilize the facilities.

The proposed bathhouse fixture counts are in line with waterpark industry standards and the Uniform Plumbing Code. Cowabunga Bay is committed to provide adequate facilities

to ensure its patrons are safe and have sanitary bathhouse facilities to use. There are milestones in place to add additional restrooms if the need is determined. The number of restrooms is in line with national standards in regard to fixtures based on occupancy.

In regard to the second issue, the bridge, the unique design of the waterpark requires bridges over the lazy river to provide to its patrons to access the inside area of the lazy river. This includes access by handicap patrons over an ADA ramp that has been incorporated into the bridge design. The length of the bridge was designed to meet ADA requirements and to accommodate grade differences. The bridge is also designed to be wide enough to accommodate maintenance vehicles and food service carts. In order for the proposed bridge to meet NAC 444, ADA requirements and to accommodate reasonable maintenance and operational needs, Cowabunga Bay is requesting a variance for the ability to eliminate the required four foot wide path around the ADA ramps. The bridges are also designed to be slightly skewed from the 90 degrees to accommodate the necessary grade differences. The bridges meet other code requirements for the height from the water elevation and pool bottom and do not pose a threat to anyone's safety.

Compliance with NAC 444.1333 Bridge Requirements, NAC 444.134 Decks, ADA requirements and reasonable maintenance and operation needs of the facility pose a significant hardship on the business. The bridges and ramps are designed to meet both ADA compliance to accommodate vehicles for reasonable maintenance and operations of the facility. Therefore, the design does not allow for a four foot wide unobstructed deck within 15 feet from the edge of the pool. This variance is requested in order for the facility to achieve ADA compliance

Compliance with NAC 444.133, 444.134, ADA requirements and for reasonable maintenance of operations of the facility will require excessive cost and affecting reasonable functionality for both its patrons, maintenance and operations crews. The cost to construct a bridge and ramps to accommodate these needs would cost hundreds of thousands of dollars making it unworkable.

The required space to construct the ADA ramps and to meet the requirements of both NAC 444.134 Decks and NAC 444.1333 Bridges, is not possible because of the amount of space required that will impact the flow of patron traffic within the waterpark causing a potential safety hazard.

In order access the inside are of the Lazy River and to meet the NAC height requirements from water and pool floor elevations, the bridges are designed at a slight angle from the perpendicular edge requirements of NAC 222.133 2(c). The proposed angles are not to exceed +/- 20 degrees off the perpendicular edge of the pool.

Cowabunga Bay will use a third party safety compliance consultant to regularly evaluate and determine how to safely operate and staff the Lazy River with life guards to ensure the variance will not cause harm or safety issues to its patrons.

The slightly angled bridge designs will not pose a threat to anyone's safety.

Cowabunga Bay was represented by Marvin and Ben Howell. Mr. Howell (Marvin) stated that they have been involved in researching waterparks, and their proposed number is in line with industry standards and anything more would be excess and cause maintenance problems from the operations side. The proposed number is adequate for the needs of the water park at this time.

Member Crowley asked the Howells if they agree to comply with the recommendations. Both expressed that they definitely agree to comply.

Member Jones asked the applicants if the building infrastructure has the capacity to build on to the facility or would need to add more. Mr. Howell stated that it would depend on the phase of building and LaBay added that it would need to be reviewed with BOH at that time.

Member Jones asked if there would be a future need for sewer lines and was advised that there is already a stub in place should the need occur.

Member Jones asked Ms. LaBay if there would be any consistency or fairness issues with the similar applicant in Summerlin if this variance is approved for Cowabunga Bay. Ms. LaBay stated that the other facility will probably be coming forward with a variance to adjust capacity limits and rather than limit park capacity for both, they looked physically at what was going on in the waterpark and decide on what, if any, extra facilities would be required. The current plan is adequate for 6,000 to 7,000 people. Ms. LaBay added that she will be there watching, and the agreement is to add additional facilities as needed.

Member Jones confirmed that there will be no economic bearing on one waterpark that is not on the other.

Member Nemec asked Ms. LaBay if there are adequate facilities. Ms. LaBay stated that the current number of proposed facilities will suffice.

Member Nelson applauded the Howells for providing a facility where exercise can take place, however she wants it to be safe. The Howells wants same and confirmed that they will gladly add additional facilities when deemed necessary.

Member Beers asked Ms. LaBay how to go about bring Nevada regulations in line with national standards. Ms. LaBay stated that she is in the process of working with the model aquatic code, which is a suggestion, not law.

Chair Scow advised that precedence has been set from Wet 'N Wild. Ms. LaBay stated that they are similar, except capacity was limited, and added that her opinion is as long as conditions are sanitary, they should be allowed to work within national standards.

A motion was made by Member Bateman, seconded by Member Tarkanian and carried unanimously to approve the Variance Request to Operate a Public Bathing Place not in Compliance with the Nevada Administrative Code (NAC) 444.214.1, NAC 444.214.2, NAC 444.278, NAC 444.133 and NAC 444.134 [Assessor's Parcel Number (APN) 161-35-402-014, 161-35-402-015] Cowabunga Bay Water Park LLC (APN: 176-06-701-003) as presented.

- 3. RECEIVE REPORT AND RECOMMENDATIONS:** Received from the February 26, 2013 CHO Succession Committee: Accept Committee Recommendations; and/or take other action deemed appropriate (Committee: Chair Jones, Members Beers, Crowley, Nemec, Scow, Wood & Woodbury). **(for possible action)**

Member Jones, Chair of the CHO Succession Committee noted that the sub-committee met earlier this week and received a report from CPS HR Consulting, indicating that there has been a limited number of applicants for the position and one of the limiting factors seems to be the necessity to have an existing licensure to practice medicine in the state of Nevada as an opening point for making an application. Currently there are

three potential applicants, one who is confirmed in terms of filing the application. The sub-committee asked CPS to do analysis of the three potential candidates and to take a look at vetting them, ranking in terms of potential. Member Jones noted that the committee does not know names of applicants. The next CHO Succession Committee meeting is scheduled for March 12 and a vetting and ranking of the applicants is expected to be discussed at that time.

Member Beers expressed a different recollection of the report as after spending five figures for the report we having one candidate that fits the legal criteria for the job. Member Jones confirmed that is correct. Member Beers stated that one of the three is not a medical doctor and one is a doctor, but not licensed in Nevada.

Member Jones stated that his recollection based on what was received from CPS is that one of the applicants who may not currently remain an applicant in terms of their initiative to remain an applicant is physician but not licensed yet in the state of Nevada. The third applicant is also a physician but not in the state of Nevada. Member Beers stated that he believed that one of the three applicants is not a physician at all, which left two, one of which is not a Nevada physician, which leave one viable applicant. Member Beers added that there are four pages of verbatim from the responses of why people would not respond and submit an application. About two-thirds of which were due to the fact that the position requires a medical doctor. Member Jones stated that he believes the committee fully understands that it will take a licensed physician to meet the criteria.

Member Scow noted that the third applicant met the criteria but is worried about his current location finding out about the application and has not actually applied; however the plan is to go forward to let them know that we would be confidential.

Member Jones stated that CPS is going to vet and rank all three individuals. Member Beers added that there is only one person that meets the criteria that has actually applied and the other one did not want to apply due to anonymity.

Member Scow stated that she recalled a discussion about possibly bringing back to the full board for discussion the regarding fact that very few other places in the country require the medical licensure for the CHO and make a decision about recommending to the state to change that. Ms. Bradley noted that this item will be brought to the agenda for the next Board meeting.

A motion was made by Member Tarkanian, seconded by Member Nemeć and carried unanimously to discuss Chief Health Officer qualifying criteria at the next BOH meeting.

Member Winchell asked if the requirement is for a medical doctor only or if it included osteopathic doctors as well. Ms. Bradley confirmed that it is for either and the licensing process, according to the Board of Medical Examiners, is at least three months.

Member Jones expressed that the succession plan, in the past, included an Assistant CHO with a plan to step into the CHO office. This person was hired with the intent that they could be fully vetted for the CHO succession and this process has not been done most recently. Mr. Jones added that this may be a point of consideration that the board should think about.

A motion was made by Member Jones, seconded by Member Nemeć and carried unanimously receive the report and accept the recommendation of the sub-committee.

- VI. BOARD REPORTS:** The Southern Nevada District Board of Health members may identify emerging issues to be addressed by staff or by the Board at future meetings, and direct staff

accordingly. Comments made by individual Board members during this portion of the agenda will not be acted upon by the Southern Nevada District Board of Health unless that subject is on the agenda and scheduled for action. There were none.

VII. HEALTH OFFICER & STAFF REPORTS

- Introduction of Elaine Glaser, Director of Administration: Dr. Middaugh introduced Elaine Glaser, the District's new Director of Administration, who started on February 11. Ms. Glaser joins us from Valley Health Systems and was with Universal Health, the parent corporation for nine years in acute care as well as behavioral health as a CEO in Massachusetts. Prior to that, Ms. Glaser worked about 26 years in Alaska.
- Recognition – City of Las Vegas and North Las Vegas: Dr. Middaugh officially thanked the Cities of Las Vegas and North Las Vegas for their support and hospitality when the Ravenholt building closed. He added that their staff was fantastic at all steps of the BOH meetings on short notice.
- Legislative Update: Jennifer Sizemore stated that there is a long list and the legislature is starting off slow. She will be giving detailed reports as received. Ms. Sizemore shared that Moe Dennis introduced BDR 1066, which will impact the makeup of the BOH. Bryan Gresh will be providing more details.
- EMSTS Report/Update - Mechanisms Being Used To Collect Blood Specimens For Blood Alcohol Analysis in Non-Urban Areas In Nevada - Dr. Middaugh stated that he was hoping to have a solution for this issue that was discussed at last month's meeting; however, at this point it is not. Dr. Middaugh asked that this item be removed from this month's agenda to the agenda of the next month's meeting as a variance was given until July.
- Foodhandler Safety Training Program Update: Ray Chua, Acting Health Records Manager stated that the main objectives of revamping the program (1) improvement of the food safety training component (2) use of evidence based science to hone the processes and services and (3) direct resources to public health needs have been met. There have been many changes, most feedback has been positive and welcomed by community and industry. Mr. Chua added that many positive internal relationships with other divisions have been forged due to this program change.

Member Wood asked what was issued to the client since the transition from Health Card program to the Food Handler Safety Training program. Member Wood also stated that at one point clients at the North Las Vegas clinic were able to do the on-line portion of the program but unable to do next steps. Mr. Chua shared that after completion of the Food Handler Safety Training program the client is issued a card with photo ID. Mr. Chua also advised Member Wood that currently clients at the North Las Vegas clinic are able to complete the entire program from training to payment to receipt of card.

- Pertussis Outbreak: Dr. Nancy Williams, Medical Epidemiologist, presented a status update on the Pertussis outbreak reporting that the case count for 2013 is at 19, which if inconsistent throughout the year, will result in approximately six times the normal average case count, although this may not necessarily happen. Of importance, is there have been no deaths in infants (under the age of one), which is the demographic population of concern.

- Daycare Vaccination Initiative: Rick Cichy, Community Health Nurse Manager, presented an update on the Daycare Vaccination Initiative, reporting that all daycares are in complete compliance for all vaccines
- EH Food Program Audit “Think Risk” Update: Presented by Glenn Savage, Environmental Health Division Director, Amy Irani, Environmental Health Manager, Ellen Spars, Senior Environmental Health Specialist and Rose Henderson, Environmental Health Supervisor
- Dr. Middaugh recommended the Audit Committee meet and make recommendation to the Board at next meeting.
- Member Crowley asked for an update on the law suit. Dr. Middaugh advised that there was nothing new, everything is on hold.

VIII. INFORMATIONAL ITEMS- DULY NOTED

A. Chief Health Officer and Administration:

1. Monthly Activity Report, January 2013

B. Community Health:

1. Monthly Activity Report, January 2013
 - a. Final Report – Obesity Analysis of School Children - CCSD

C. Environmental Health:

1. Monthly Activity Report, January 2013

D. Clinics and Nursing:

1. Monthly Activity Report, January 2013

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. 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. Comments will be limited to five (5) minutes per speaker. Please step up to the speaker’s podium, 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 Chairman or the Board by majority vote. Chair Scow opened the Public Hearing and asked if anyone wished to comment.

Dr. Thomas Coleman, Director of Community Health at Southern Nevada Health District, spoke as “the unnamed CHO applicant”. Dr. Coleman stated that although he has applied for the position, he wants the Board to recommend the best applicant and to vet however it wants to be done. Dr. Coleman noted that he has worked with three large rural county entities and understands the issues of small counties. Dr. Coleman shared that it was serendipity that he met Dr. Middaugh at a Legionnaire’s outbreak some time ago. Dr. Coleman has been in leadership position since joining the District and genuinely wants the Board to do what is needed. He cannot change past history and wants to move forward regardless of his position at the District. Dr. Coleman expressed that he appreciated the kind comments made by Norine Clark and Cara Evangelista and added that the District is still in the midst of an on-going incident with the building closure. He has lived this type of situation before and knows that issues will continue to be of concern. Dr. Coleman stated that if the Board is interested, he wants and fully expects to meet with them. Dr. Coleman expressed that he does not want the position of CHO if the Board does not want him. He wants the Board to do due diligence and understands that the Board members do not know him. Dr.

Coleman is Interested in the job as CHO, but most important is for the Board to have the person that they want in that seat.

Member Winchell stated that it is important to try and work through the issues and get closure as the District is in turmoil and not able to look forward to look at standards of national accreditation. She added that everything is in limbo regarding making decisions on how to grow and in what direction.

Seeing on one else, the Chair closed the Public Hearing portion of the meeting.

IX. ADJOURNMENT

Motion made by Member Tarkanian, seconded by Member Jones and carried to adjourn the Board of Health Meeting at 10:52 a.m.

SUBMITTED FOR BOARD APPROVAL

John Middaugh, M.D., Interim Chief Health Officer
Executive Secretary

/jw