



## MINUTES

### **Southern Nevada District Board of Health Meeting Environmental Health Fee Committee Meeting June 11, 2019 - 2:00 p.m.**

**Southern Nevada Health District, 280 S. Decatur Blvd., Las Vegas, Nevada 89107  
Red Rock Conference Room**

#### **MEMBERS PRESENT**

Nicole Brisson, Board of Health  
Katherine Jacobi, Nevada Restaurant Association  
Norberto Madrigal, Lunas Construction  
Scott Nielson, Board of Health  
Virginia Valentine, Nevada Resort Association

#### **MEMBERS ABSENT**

Erica Arthur, Ovation Properties  
Chris Darling, A Track Out Solution  
Brooke Egan, Lennar  
Brian Wursten, Board of Health

#### **ALSO PRESENT: (In Audience)**

Paul Beckstrom, Cosmopolitan  
Jim Chachas, Hobbs, Ong & Associates  
Guy Hobbs, Hobbs, Ong & Associates  
Marilyn Kirkpatrick, Board of Health  
Erin McMullen, Boyd Gaming  
Allison Moderson, Wynn  
Irene, Skarlatus, MGM  
Jeff Seavey, Caesar's Entertainment  
Brisa Stephani, Impact Food Safety  
William Wong, Asian Chamber of Commerce

#### **LEGAL COUNSEL:**

Heather Anderson-Fintak, Associate General Counsel

#### **EXECUTIVE SECRETARY:**

Joseph Iser, MD, DrPH, MSc, Chief Health Officer

#### **STAFF:**

Ernest Blazzard, Heather Hanoff, Robert Newton, Larry Rogers, Tanja Baldwin,  
Walter Ross, Thomas San Nicolas, Christopher Saxton, Herb Sequera, Karla Shoup,  
and John Shannon

#### **I. CALL TO ORDER**

Chair Nielson called the Southern Nevada District Board of Health Environmental Health Fee Committee meeting to order at 2:13 p.m.

#### **II. PUBLIC COMMENT:**

**Brisa Stephani, Impact Food Safety:** Overall, the financials provided by SNHD have changed continuously. From what has been provided, she has not seen sufficient justification for the requested fee increases. It seems like SNHD is just trying to push anything through, rather than do it right. One example is the B Downgrade fee which is up to \$600. In a previous presentation, it showed how much time is being spent on those downgrade reinspections and it also includes the time spent on the first inspection which is already paid for by the annual permit. She has seen

people lose their jobs if they get a downgrade. Downgrades are not always issued equally. Therefore, if they are going to associate a fee with downgrade fees or any other fees, she hopes they are based on real numbers. She does not agree with the proposed fees as is and she looks forward to the public workshops. Thank you.

Seeing no one else, this portion of the meeting was closed.

**III. ADOPTION OF THE JUNE 11, 2019 AGENDA (for possible action)**

*A motion was made by Member Valentine, seconded by Member Jacobi, and unanimously carried to adopt the June 11, 2019 Agenda as presented.*

**IV. REPORT / DISCUSSION/ ACTION:**

1. **Approve Environmental Health Fee Committee Meeting Minutes** – April 5, 2019, direct staff accordingly or take other action as deemed necessary **(for possible action)**

*A motion was made by Member Valentine, seconded by Member Jacobi, and unanimously carried to approve the April 5, 2019 Minutes.*

2. **Approve Environmental Health Fee Committee Meeting Minutes** – May 7, 2019, direct staff accordingly or take other action as deemed necessary **(for possible action)**

*A motion was made by Member Valentine, seconded by Member Jacobi, and unanimously carried to approve the May 7, 2019 Minutes.*

3. **Approve Environmental Health Fee Committee Meeting Minutes** – May 29, 2019, direct staff accordingly or take other action as deemed necessary **(for possible action)**

*A motion was made by Member Valentine, seconded by Member Jacobi, and unanimously carried to approve the May 29, 2019 Minutes.*

4. **Receive Staff Recommendations Regarding Proposed Environmental Health Fee Schedule Changes:**

Chris Saxton reviewed the staff recommendations from the presentation and supplemental downgrade attachment. He said that supervisors review all downgrades. Mr. Rogers also monitors inspector downgrade rates quarterly. If anyone falls outside two standard deviations, management will investigate and work with that person. There are no quotas for downgrades. Staff also go through a standardization process with the FDA Voluntary Retail Standard Program. All EH inspectors go out with the trainers to make sure staff are writing violations in a standard manner.

Chair Nielson asked what the recourse was for someone dissatisfied with a downgrade. Mr. Rogers said the operator can contact the supervisor and supervisors review every downgrade to verify that it is legitimate.

Member Jacobi's comments are based on survey and interviews that have been done with her operators. The time lag for Plan Review is a big concern. She thinks staff need to examine the root cause and the structure of those assignments. There may be skill level issues. She supports that being investigated and if that area needs extra staff, she would support that. There doesn't seem to be a consistent method on how staff performance is evaluated. She suggested that a third-party company that review performance. She would like to see more information on that. The grant information wasn't clear in terms of staff time, the return on investment, and the value to the community. She also thinks it's worth examining the Swing

Shift. Compare the time, assignment, and revenue with the overtime (OT) it was intended to curtail. It may not be in the purview of this committee, but she would like to see the proposals for the new software expense. As mentioned several times, the budget numbers on the slides and handouts are inconsistent and don't give confidence for the requested increases.

Member Valentine said EH has so many different activities, that she doesn't believe that everything should be grouped together and funded or subsidized by pool and food fees. There are a lot of activities that are general health functions that should be covered by property tax or general tax revenue. In general, EH fees should pay for the cost of services. She would like some input on how increased reinspection fees affect restaurant operators; this can be accomplished during the workshops. She may agree to indexing at some point, but has a hard time figuring out the basis for the fees now. Until she understands where we are starting, she is reluctant to build in automatic increases. She does not see the need for a separate ending fund balance for EH. She would rather see a fee for service setup, instead of an Enterprise Fund.

Chair Nielson does not support an across the board fee increase. That is not an appropriate way to increase fees because fees need to be justified. He recommends that staff increase fees so that the fees pay for the services being rendered. The problem with doing that is that he doesn't think the information is accurate in every situation. He recommends that SNHD adopt policies and procedures that require staff to accurately track their time and expenditures. Then in the future, with accurate information, staff can specifically adjust fees for different services to the level that will pay for those services. He recommends charging for certain reinspections and increasing fees for downgrades and closures. He recommends that staff be allowed to work overtime to reduce the backlog and improve our service levels. Staff should charge enough money to pay for that function. Cost of living adjustments are a good idea, but he is not convinced that we have the right fees yet. He recommends that Vector Control and Illegal Dumping remain in EH but that they be paid for from property taxes. He is not opposed to increasing staff, but it has to be strategic and in areas where we know there is a demand for services. He wants staff to provide recommendations to the Board of Health (BOH) for the immediate addition of staff in very limited areas such as Pools and Special Processes.

**5. Discuss and Approve Recommendations of the Environmental Health Fee Schedule to the Southern Nevada District Board of Health on June 27, 2019**

Dr. Iser said the committee was formed to make recommendations that would go to the BOH. Staff may have different or the same recommendations that will also go to the BOH. Then the BOH, as a whole, will determine which recommendations, if any, they would like to see done. He thinks one recommendation would be that it's time for workshops. Staff will provide the BOH recommendations at the workshops. Heather Anderson-Fintak said that this isn't procedurally where the BOH decides on the recommendations but where the BOH gives staff direction for the purpose of going to workshops. Staff will need to do at least two public workshops. Then it will come back to the BOH for both the Business Impact Statement and the following meeting for the final decision on what exactly is being approved on the fee schedule.

**Recommendation A:** Chair Nielson recommended that staff provide the BOH with the correct accounting categorization for the three slides titled Additions/Modifications from the May 29, 2019 presentation so the correct revenue stream is going to the correct accounts and the proposed fees will pay for the services being provided.

Member Valentine said she doesn't have enough confidence in the numbers to recommend a lot of changes. She will support the motion to see what it looks like when staff return.

*A motion was made by Chair Nielson, seconded by Member Madrigal, and unanimously carried to approve the recommendation.*

**Recommendation B:** Chair Nielson recommended that staff provide the BOH with a proposal for expedited services and fees for those services.

*A motion was made by Chair Nielson, seconded by Member Jacobi, and unanimously carried to approve the recommendation.*

**Recommendation C:** Chair Nielson recommended that staff give the BOH a proposal allowing staff to work overtime with an appropriate fee schedule that will pay for all staff time and other costs associated with such overtime work.

Dr. Iser clarified that he has never denied overtime (OT) when it was justified. He does limit OT on behalf of the BOH for all divisions. Commissioner Kirkpatrick said she was the one that required control of OT. OT should be a wash and not paid for from the General Fund.

Mr. Saxton said another issue is that, according to the Union contract, staff can take Comp Time instead of OT. That is more time off for the employee which means more staff is required. Chair Nielson asked how much Comp Time can be taken per the Collective Bargaining Agreement (CBA) and how much can be banked? Mr. Rogers said that staff can hold/carry over 40 hours total. Staff can build 40 hours in one month, take a vacation, and do it all again. Dr. Iser said that if staff are using Comp Time to take one week off per month, they aren't using their annual leave which does continue to accumulate and gets paid out at a higher rate due to promotions and length of service.

*A motion was made by Chair Nielson, seconded by Member Valentine, and unanimously carried to approve the recommendation.*

**Recommendation D:** Chair Nielson recommended that Vector Control remain part of Environmental Health but costs for the program will be paid from property taxes, not fees.

*A motion was made by Chair Nielson, seconded by Member Valentine, and unanimously carried to approve the recommendation.*

**Recommendation E:** Chair Nielson recommended that the Committee advise the BOH to support changing the State statutes to increase the tire tax and that the tire tax thereafter is tied to an annual increase in the cost of living.

*A motion was made by Chair Nielson, seconded by Member Valentine, and unanimously carried to approve the recommendation.*

**Recommendation F:** Chair Nielson recommended that the BOH does not adopt a cost of living increase for the fees at this time.

Chair Nielson thinks that tying the fees to a cost of living increase is a good idea, but he is not comfortable with it right now. Staff need accurate information about the costs of each service and the fees for each service, so staff can make sure that people are paying for the services they are using. If the Committee has to come back again next year, after staff have gathered a year of accurate information, then we will do that. Member Valentine said that she would like to see something happen when we are confident in the base rates.

Marilyn Kirkpatrick said that if we don't approve a cost of living increase, we will be back in the same position ten years from now with a large fee increase. Cost of living is consistent with the Water Authority and the other utilities, so she hopes the BOH will determine a number that can be justified to the people.

*A motion was made by Chair Nielson, seconded by Member Valentine, and unanimously carried to approve the recommendation.*

**Recommendation G:** Chair Nielson recommends that the BOH require staff to adopt policies and procedures, so the costs of performing services and the fees charged for services can be tracked accurately. Member Valentine amended the recommendation to say that the Committee supports ongoing efforts by staff to adopt policies and procedures, so the costs of performing services and the fees charged for services can be tracked accurately. Chair Nielson accepted the amendment to his motion.

Chair Nielson said he's not indicating that things are being done incorrectly or poorly. He just knows that programs are being bundled together so it's difficult to look at a specific program and determine if staff are charging enough for those services.

*A motion was made by Chair Nielson and amended by Member Valentine. The motion was seconded by Member Jacobi and unanimously carried to approve the amended recommendation.*

**Recommendation H:** Chair Nielson recommended that staff charge for reinspections and increase fees for downgrades and closures. He recommended no fees for B Downgrades due to repeat violations or 11-13 demerits. He recommended the following fees be imposed or increased: \$400 for B Downgrades due to 14-17 demerits, \$600 for B Downgrades due to 18-20 demerits, \$1,000 for C Downgrades, and \$1,200 for Closures.

Member Valentine seconded the motion, so the Committee could discuss it.

Member Jacobi opposes any fees for B Downgrades. Member Jacobi will support increases for C Downgrades and Closures.

Member Brisson opposes any fees for B Downgrades. There should be a big gap between a B and a C Downgrade. A B Downgrade is never an Imminent Health Hazard (IHH); it's typically human error. An IHH is caught with C Downgrades or Closures. Charging for a B Downgrade would make it much harder for an operator to get reinspected and back to an A Grade because they have to physically leave the establishment to pay a fee. Mr. Rogers said that all invoices can be paid online. Member Brisson said that in order to correct the situation quickly, the operator needs to physically go to SNHD to pay the fee.

Commissioner Kirkpatrick thinks that if Closure fees are higher, it might make the operators think twice about being closed multiple times a year. On Closures, staff have to reopen the facility and educate the operators. She would rather take the money from the B Downgrades and add them to the C Downgrades and Closures.

Dr. Iser said that it does cost SNHD money to reinspect B Downgrades, so he recommends some sort of fee for a B Downgrade. There should be incentive for a restaurant to do well and protect the public's health.

Commissioner Kirkpatrick doesn't think enough operators take advantage of the option to self-close, which then takes them out of the fine component. Mr. Rogers clarified that if staff go to a restaurant and they are operating with an IHH or more than 40 demerits, that's an SNHD Closure for a fee. If there is a sewage backup and the operator closes the kitchen to clean the area, then they can reopen on their own and there isn't a fee associated with that.

Mr. Rogers said B Downgrades do mean that there is a significant risk factor. He tells his staff to make sure that a B Downgrade deserves a reinspection.

Member Valentine is not sure she can support the motion but discussing it at the workshops makes sense. It's important to hear from a lot of operators. Staff should make it clear that it's included primarily to get feedback.

*A motion was made by Chair Nielson and seconded by Member Valentine. Member Madrigal agreed with the motion. Member Jacobi and Member Brisson opposed the motion. The recommendation passed.*

**Recommendation I:** Chair Nielson recommended that staff provide the BOH with recommendations concerning very specific and selective staffing increases that will help relieve the delays SNHD is experiencing in certain areas in order to improve services.

*A motion was made by Chair Nielson, seconded by Member Jacobi, and unanimously carried to approve the recommendation.*

**Recommendation J:** Member Madrigal recommended that staff research ways to track tires and other illegal dumping in a cost-effective manner to enhance revenue and thereafter advise the BOH on the findings of such research.

Member Madrigal doesn't want to wait for two years for the next legislative session to get additional money for illegal dumping. He would like staff to track tires from new and used tire shops by their serial numbers. When tires are found, staff can track them back to the source to know who is responsible. This would force all tire shops to make sure their tires are being disposed of properly.

Member Valentine said the person who's sells the tire may not be the person who dumps it, but this might be an enforcement tool. Illegal dumping covers anything that gets dumped in the desert, not just tires. Illegal dumping fees and where they should go deserves some more thought.

Member Jacobi said that tracking tires could require SNHD to spend more money. Mr. Sequera said it would be substantially more money because he would have to add staff. Dr. Iser said there may not be a cost-effective option.

Commissioner Kirkpatrick said there are some locations that have 500 to 5,000 tires. Tracking those would be tedious. She would rather staff be able to abate the location to have the tires recycled. Staff can also determine the impact of additional staff on illegal dumping.

*A motion was made by Member Madrigal, seconded by Chair Nielson, and unanimously carried to approve the recommendation.*

**6. Discuss and Approve Environmental Health Division to Schedule Next Steps for the Environmental Health Fee Schedule, Including Public Workshops (for possible action)**

Chair Nielson said that the committee and staff recommendations will go to the BOH. The BOH will then make decisions on the recommendations and those decisions will go to public workshops.

**V. PUBLIC COMMENT:**

Seeing none, the Chair closed this portion of the meeting.

**VI. ADJOURNMENT**

The Chair adjourned the meeting at 4:00 p.m.

Joseph P. Iser, MD, DrPH, MSc  
Chief Health Officer/Executive Secretary

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