

CALHOUN COUNTY BOARD OF HEALTH MEETING MINUTES

190 East Michigan Avenue, Suite A100, Battle Creek, MI 49014

Date: August 18, 2003

PRESENT

Board of Health

Larry Anderson, Chairperson
Jean Cook-Hughes, Vice Chairperson
Byron McDonald
Ben Miller, County Commissioner
George Perrett, Attorney-at-Law

Health Department

Heidi Oberlin, Health Officer
Kathy Ferguson, Finance Officer
Dr. Greg Harrington, Medical Officer
Ted Havens, Environmental Health
Ginger Hentz, Assessment Team Manager
Brigette Reichenbaugh, Administrative Assistant

Calhoun County

Greg Purcell, County Administrator
Nancy Mullett, Legal Counsel
Jim Latham, County Finance Director

Guests

Dave Stevenson, Stevenson's Speedy Chick, Marshall
Shirley Hunt, Ice Cream Dream & Shirley's Sweet Treats
Carlos Ramsey, Bedford Temple Association
Mike Rahn, Cereal City Snacks
Sally Goss, Chapel Hill United Methodist Church
Dale & Sandy Kress, Turtle Lake Resort
Sara Hisler, Awesome Ice Cream
Linda Headley, Binder Park Zoo

I. Larry Anderson called the meeting to order at 8:10 a.m. and began with introductions.

II. Approval of Agenda

Larry Anderson added one item to agenda – teenage pregnancy ad.

Jean Cook-Hughes Moved; Byron McDonald seconded the approval of the agenda.

III. Consent agenda was approved.
Motioned by Jean. Ben Miller supported.

IV. Public Comment

No public comments.

V. Public Hearing regarding Environmental Health (EH) fees.

Larry explained the budgetary increase /impact. Larry asked Ted Havens to summarize what is involved and the experience that he had in the other three meetings held regarding the fees.

Ted reviewed the fees and the services that we provide including water supply and septic systems, and the food inspection program. He also explained how the fees are computed based on the inspections completed. Ted summarized the other three meetings around the county and the packet including comments addressed at the meetings. Ted presented the revised fee proposal (included in the BOH packet). Several comments were:

- Amount we were charging seemed high.
- Why non-profits were paying so little as opposed to restaurants.
- Several non-profits felt that they were in competition with restaurants.
- Vending fees were too high.
- Mobile licensing fee was too high.

Based on comments received at these three meetings, a revision was made to the fixed food establishment fee. EH increased the simple fee and lowered the fixed food establishment fee. The change was not significant. Non-profit fees were increased. The temporary food license increased slightly. A provision was established for nonprofit temporary food license fees (e.g., Boy Scouts). The vending fee was reduced slightly.

In regards to the overall food manager “on duty” requirements, this requirement was slightly revised. EH proposes that the statement read “substantially onsite at all times.” Interpretation: One certified person on duty during hours of operation, however, if that individual was required to leave the establishment to pick something up, etc., that would be permitted, rather than specifically on-site at all hours of operation. A concern was also addressed about the 60-day timeframe for replacement of a certified individual. EH increased this timeframe to 90 days.

Larry asked the Board if they had questions.

Jean asked if the proposed fees cover our costs.

Ted: Not 100%. We receive state funding that was deducted when computed. We also felt that Calhoun County should have partial ownership in supporting the program.

When the state, local, and restaurant fees are combined, all costs are covered. Larry asked how many establishments in Calhoun County will be effected. Ted answered 550-560 total, including churches, fixed food establishments, taverns, etc.

Ben asked if the fees reflect the revisions we made due to the revised state laws for food inspections.

Ted: Due to the nature of and thoroughness of inspections over the past two years, the costs have increased

Larry informed guests again that the changes were per state requirements.

Ben asked: 1. Are our fees a reflection of the increased state burden requirements? 2. Is the "food service manager on-site at all times" requirement a county requirement or state mandated?

Ted: Yes. The food service manager is recommended as a county requirement.

Paul stated that one of the changes per the food code is the competency of food managers and operators to have knowledge of the laws that are provided by the State per the Federal Government. We are hoping, through the classes offered by EH that it will make it easier for the operators to have the knowledge required to run their establishment safely.

Ben stated that there appeared to be a good turnout at the other meetings. He also indicated that there are three funding sources Federal, State, and County. Is there a chance that we can get a better handle determining how much county money goes to the food inspection program? He also expressed that he likes the idea of a food manager on-site.

Kathy Ferguson stated that the state cut our funding by several thousand dollars. Therefore, the amount of funds we provide locally increases.

Byron asked if we wrote a letter to our representative.

Heidi answered that this is a collective effort through MALPH (Michigan Association of Local Public Health).

Byron asked if we know how much the cost of this mandate is.

Heidi Oberlin stated this has not been separated out, but Kathy added that the county costs, including cigarette tax, are about \$340,000.

Greg Purcell reassured the Board that the county is not reducing the funds allocated to EH.

Jean asked for clarification on a comment that approximately 50% of establishments currently have a certified person on duty?

Ted: We've been providing the certified manager training for several years. We don't keep a log on where these certified individuals are at one time. It is our estimate that we have trained approximately 40% of the individuals currently employed in food establishments within Calhoun County.

Several attendees to other meetings stated that they indicated they have certified individuals on staff.

By 2005, all restaurants are required to have a certified person on staff per the proposed code change.

Greg Purcell stated that when a license renewal is due, all restaurant owners, non-profits, etc. will pay the new fees.

Public comments:

Dave Stevenson of Stevenson's Speedy Chick in Marshall expressed his concerns as follows:

- Appreciate the revisions to the proposed fees and the improvements – we are moving in the right direction. He feels that he has a positive relationship with the Health Department.
- One concern he has is that it is fine to write this proposal, but has there been an analysis completed to determine why we should have a trained/certified individual on duty at all times? What is the impact (cost penalty) for the county. He feels that there may be a substantial burden on our training budget (e.g., if one restaurant with 100 people has all their employees trained). Once the Health Department requires an establishment to train their individuals, we are going deeper into the management of an establishment. Is there a liability for the Health Department?
- Also feels that the Health Department has to be timely (he operated three months without a license) in the issuance of licenses. Maybe every restaurant should have a licensing manager. Training six or seven people could become a cost burden for restaurants.

Larry Anderson asked Ted Havens to address lateness on licensing.

Ted explained that we have experienced problems with the State of Michigan and their timeliness. This was a statewide problem. The Health Department recognizes that restaurants will have expired licenses posted. However, a restaurant's license is not technically expired and would not have to close down due to timeliness by the State.

Byron asked why the State is so late/behind and if it was possible for the Health Department (locally) to issue licenses.

Ted: The State does our licensing, we do not have control over that and although local licensing has been discussed in previous years, it has never gone anywhere.

Mike Rahn of Cereal City Snacks stated that he appreciates the revised fees from the original proposal. However, he is concerned with the 20 – 25% increase (per his calculations). Mike feels that if he extends the increase to his clients, he will run many customers out the door. Mike also feels that it does not make sense that others don't pay license fees (e.g., vendors, restaurants, etc.).

Paul Makoski stated that if you see a food establishment operating without a license, please contact us immediately. Again, the fees are simply a reflection of the services we provide.

Mike Rahn: When the Health Department completes inspections for Cereal City Snacks, it usually takes about three hours. He provides transportation to all of the machines. That is \$250 an hour and he is doing the driving. That does not cover machine cost.

Paul: We calculate that it tabulates to a \$1 per machine when spread out over the type of machines and how much they sell out of that machine. Vending fees have not been adjusted for approximately five years.

Mike: When the Federal Government produced the \$1 coin, it costed him approximately \$80,000 to change all his machines.

Ted: Paul is right about the increase. We have not adjusted the vending fees for approximately five years.

Sara Hisler, Awesome Ice Cream, expressed her concerns as follows:

- Last year she opened on Memorial Weekend. She received her license in October (once month after she closed in September).
- She falls within the grey areas between Simple and Complex.
- Has an ice cream shop on Columbia Avenue, in Battle Creek. They established the ice-cream shop within the building that they previously owned. Very simple. Soft-serve ice cream and hand dipped. Slicing bananas, etc.. No food, no ice, very small. Cans of pop. Five employees. Seasonal. Four to five months in operation. Most of the time by herself. If the ice cream is frozen or not, she can tell.
- She goes through a lot of turnaround, however, she feels that the exposure with food handling is not there. Her biggest factor is keeping the machines clean. Liability exposure is not there.

Paul: Anything that is consumed is considered to be food. Food is not our main concern with nationwide central suppliers. Sixty-six percent (66%) of all foodborne illnesses are from what people do and how the food is handled. Seventy six million (76,000,000) foodborne illness cases that can be traced back to the source. This is due to turnover of staff, source of supplier (third-world country), greater volume of people eating out, and the handling of food.

Sara: Running an establishment involves cleanliness.

Paul: Due to Communicable Diseases, handling of food is a large reason for the inspections and training. Handling of the can, etc.

Sara feels that all owners should be trained, but in her case with large turnover and seasonal, she's concerned about training her staff and the costs this may occur. She feels that violators should be penalized.

Paul stated that of the 560 places we inspect, approximately ½ of those require further inspections. The Health Department can make a career out of the violators in Calhoun County.

Sara stated that she will try to comply.

Paul: Home study programs are an option. We have information on institutions that offer training. You can take the class elsewhere and show us the certification. Employees do not need to be trained at the Health Department; however, the classes offered here are at no charge (included in the fees).

Sara: It costs employers when sending employees to training.

Linda Headley, Binder Park Zoo: Do we require a food certified individual at each location (in the Binder Park type of operation), or could they have someone cover all locations. Or, do we require one certified individual in each area.

Paul: This does not cover carts. But yes, one in each area (Africa and front area of Binder Park Zoo).

Shirley Hunt, Ice Cream Dream, proposed that fees be prorated for those that operate seasonally. Increase the fees and penalties for those that require multiple inspections.

Paul: Violators do pay an additional fee for repeat inspections.

George Perrett stated that he agrees and those that require multiple inspections need to be penalized.

Ben: The fees are understandable that we are answering due to State mandates. Although, as to the manager portion, we are going out on our own.

Paul: We have net gain in the numbers of restaurants but no net loss in shutting down restaurants.

George: To answer Dave's question regarding the liability on the Health Department; the government has little or no risk of shared liability. That doesn't mean he doesn't take his comments to heart. He's seen the revised proposal.

- The terminology "significantly on-site" is subject to interpretation and will be very difficult to regulate. When referring to small operations, we are going to force them to have more than one certified individuals. This does become a cost of operation and will impact a person's decision whether to continue operation or not.
- The \$75 penalty is a "bucket of sand out of the Sahara." We should go after those that aren't complying with existing regulations. Force those out of business where people contract a foodborne illness and those with many penalties.
- If a restaurant has a three shift operation with one certified manager, there could be a thousand employees; you can't state that that is a safe operation.

A manager/owner can assign one employee to each shift to manage 1,000 employees. Not going to work.

- We must clarify what we mean by substantially on-site.
- Cannot support this proposal as it stands. Has no problem with the assessment of the fee if it covers our fees. Is it wrong that the State and Federal do not send money with it? Yes, but a large fee is not going to force them out of business. Also has a problem with the training component and the burden it will place on employers/owners.

Larry: Voting is separate for the fees and for the code changes. Two options for fee changes based on feedback are:

- Seasonal operations -- prorating license fees based on the number of months in operation.
- Second are higher penalties for institutions that continually have violations.

Greg: Referred to Nancy's comment. Not a sanction.

George: Tardy licensure. Assess a late fee on top of existing licensing fee for those who are tardy on their license renewal. Repeat violator. Concerned about tardy licensure. But more of a concern is "Is the business putting out bad food?". Assess a civil sanction in the form of the late fee. We can adopt a more harsh penalty for violation of existing standards.

Paul: There are pieces of the food code that do address those issues. Penalties are also included in the current fees that we charge.

George: If there is ever an opportunity for us to address a windfall should be put on those that are in violation. Our sanction should be \$500 (not just to cover costs). If we have to be tested in court on something like that, not a bad thing. Repeat violators should be put out of business. They can't just get by and pay their \$100 fee.

Larry proposed that we address the issue of fines on a separate day. However, at this time, we will adjust the fees to represent prorating.

Ted: That would not be a problem. The Health Department can establish a separate fee for prorated (e.g., ½ year Simple inspection, \$175).

Paul: Nine months or less is considered seasonal (one inspection).

Larry proposed that we accept the Resolution 25-2003 and accept the fee schedule.

George: The fee should not be assessed based on the number of inspections. Should be prorated on the number of months a business is in operation. George feels that the fee should be based on the nature of the operation of the business. Is it possible for us to assess based on that? Maybe not workable, but if someone is open eight months they should pay 2/3 of the fee.

Greg: Seasonal is nine months of operation would be half the fee.

Larry: Adopt the fee schedule with the change to seasonal operation.
Ben moved. George seconded. Passed.

Larry: Let's consider the code changes that have been proposed.

George moved that the issue of the code changes be revised and proposals to be presented at the next Board meeting. Jean moved. Larry seconded.
Passed.

VI. Resolutions:

Resolution 26-2003: Heidi summarized the resolution. The Meningococcal vaccination is typically required for individuals going off to college. It is hard to schedule an appointment at a physician's office for this. We are proposing to charge for this immunization because this does not fall into our standard childhood immunizations. Fees would allow us to purchase supply by private stock.

Ben: Have there been a lot of requests for this?

Greg: Prevention is really the answer.

Heidi: This immunization is not a State requirement, but individual institutions are requiring it. This is currently only available through local physicians in Calhoun County.

Ben moved. Jean supported. Passed.

Resolution 27-2003: Heidi: This is the standard DEQ contract for inspections of manufactured housing communities. Basic boilerplate.

Ben moved. Jean supported. Passed.

Resolution 28-2003: Heidi: This is the standard annual contract with the State Department of Community Health. Boilerplate language lighted up regarding HIPAA. The budgetary impact is outlined and much we knew about.

Larry: Increase in bioterrorism funds? Do we know specifically what they are for?

Heidi: We know exactly that funds from this contract will fill the gap in infrastructure responding to surveillance, communication, IT, Communicable Disease. It will greatly assist with staffing needs.

Larry motioned for approval. Jean moved, Ben supported.

Greg: If you add up all and take bioterrorism out, it's actually a \$140K cut. \$115K in Federal.

Resolution 29-2003: Heidi: This is the standard contract we use with local providers. Reimbursement rates are set forth by the state and our staff needs to annually engage the hospitals and individual physicians to secure contracts

with them as we have access to provide better outreach than officials in Lansing.

Larry: Two years ago we had a committee whereas hospitals came up with a solution that the Health Department should maintain these services.

Jean: moved; Ben and Mac supported. Passed.

VII. Finance Report

Kathy Ferguson: We are showing an excess of \$25,000 revenue over expenses. Under-spending is in capital and line items. Large dollar amounts will hit in August and September as we were conservative until we knew where we would be. We have been able to cover our expenses with current revenue.

Larry: New furniture is part of that capital?

Kathy: We received an offer of 0% interest on a two-year lease of several furniture items.

Larry asked for comments. None.

Budget:

Kathy: Overall the budget increased \$37,000 this year. \$9,000 additional in state funds. Environmental Health fees are estimated at \$60,000. The Nursing Clinic will obtain a billing system. Kathy summarized the Nursing Clinic donations (unexpected donations of approximately \$75,000). We expect a loss of funding grants. CDBG decreased their funding, Area Agency on Aging will fund services once provided by the Health Department.

Larry asked if this was a reflection of organizations cutting their programs and funding.

Kathy: Yes. However, we do not predict staffing cuts due to relocation of staff to other programs.

Expenses: Decreased spending on capital items.

Ben: Where did we bid on the furniture and where did we purchase?

Greg: Custer Office Equipment as part of county agreement.

Kathy: Spending less on contracts with outside organizations and less on supplies. Spending more on salaries and benefits. Expect a 10% increase in health insurance costs.

Greg: We are doing some things to remediate those costs, however, they will increase.

Kathy: Rates are effective January 1, 2004.

Jean: Part of the county's umbrella?

Greg: Yes.

Kathy: We are expecting a 2% pay increase and additional salary expense as staff move up along the scale.

Byron: What were the two city block grants we lost?

Heidi: Lead and Great Choices.

Byron: Senior health assessment/Area Agency on Aging?

Greg & Heidi: Burnham Brook will provide the services.

Byron: Homeless clinic. What was the carryover?

Kathy: The carryover is approximately \$70K.

Ben: Expenses shows \$351,000.

Kathy: That reflects clinical support that is spread over the programs. All costs go elsewhere.

Ben: Why or where is the \$351,000 reduction in expense?

Jim: Allocation.

Kathy: This is a holding tank that will be spent throughout.

Larry: Regarding the NCBC – do we still have a deficiency in medical direction oversight?

Kathy: Yes, it is included and we do have the money to hire prior to fiscal year end.

Larry stated that the community group is working on the project and that it is moving positively.

Byron: How much of the Nursing Clinic budget are we covering?

Kathy: None.

Ben: \$9,042K is going into the NCBC.

Kathy: Administrative costs. Maintenance cost from county plus indirect costs. Not county hard dollars.

Jim Latham: Maintenance effort is the dollars we send over, but indirect is what we do and the services we provide.

Ben: We cannot, as a county, give you money and carry it forward -- money would have to be spent.

Byron: How much do we get from Tobacco?

Kathy: There are two items: 1. \$50,000 in cigarette tax dollars. 2. \$14,000 tobacco reduction to assist others in quit smoking.

Heidi/Greg: This money is decreasing due to the reduction in quantity sold. Studies show that many smokers are purchasing tobacco in Indiana and Ohio.

Greg: Staffing pattern. Actually breaks out into a new category between temporary/seasonal. The Health Department will be correcting the 2002/2003 budgets to reflect permanent and temporary FTEs into separate categories. Total authorized staff is what BOH and BOC will approve. Temporary will be separate.

Byron stated that he would like Heidi, in letter/memorandum form, to write down additional programs that she feels the Health Department should offer.

Larry suggested that this should be placed on the next agenda included with Ends policies.

Larry: Motion for approval of the 2003/2004 budget.

Ben moved. Jean supported. Passed.

Larry presented the Teen Pregnancy ad to the Board. Larry summarized that Nancy McFarland, UWGBC, is heading up the project. Ben has signed as a commissioner. Heidi has signed it. But under our revised policies if an individual signs as a Board member, support is required from all Board members.

Ben feels that as a member of the BOH, there should be nothing precluding him as a member to list themselves as a member of the BOH.

Larry: According to the revised Board policies, an individual cannot do that as a Board member.

Ben stated that he cannot believe that this was included in the policies

Ben: Full support that we take a position on that.

Byron: Suggest that we check with George Perrett on this matter.

Larry motioned that we confirm with other Board members.

Ben Moved. Mac: Supported. Passed.

Larry: Put on discussion for next meeting – Ends Policies.

Larry informed the Board that he contacted Pat West regarding her membership on the Board of Health. Pat stated that since she is a foster mother and has two children that are presenting some real challenges, she is not able to attend meetings in the morning, and that she will be submitting her resignation to the Board after today. The Board will form a nominating committee to look for a new representative. If anyone is interested in sitting on the nominating committee, please let Larry know.

Jean: In response to a comment that we should recruit an individual from Albion, Jean believes that we are tying our hands when we say Albion. Also, by stating that specifically a minority may also tie our hands.

Ben, Jean, and Larry will become the nominating committee.

Larry will call Pat West for her letter of resignation.

Greg commented that recently he read in a Jackson newspaper, Jackson County has established similar EH fees, but have not established the certification requirements that EH are proposing.

Greg asked if the EH fees and regulations will go to BOC at the same time?

Heidi: Fees can go without regulations to the BOC.

Larry: Meeting adjourned at 9:55 a.m.