

## **CALHOUN COUNTY BOARD OF HEALTH MEETING MINUTES**

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

Date: September 15, 2003

### **PRESENT**

Board of Health	Larry Anderson, Chairperson Jean Cook-Hughes, Vice Chairperson Ben Miller, County Commissioner George Perrett, Attorney-at-Law Dr. Jeffrey Mitchell
Health Department	Heidi Oberlin, Health Officer Kathy Ferguson, Finance Officer Ted Havens, Environmental Health Paul Makoski, Environmental Health Brigette Reichenbaugh, Administrative Assistant
Calhoun County	Greg Purcell, County Administrator Nancy Mullett, Legal Counsel Jim Latham, County Finance Director
Guests	Barbara Fredericks Kate Segal

#### **I. Call to order and introductions**

Time: Larry called the meeting to order at 8:05 a.m.

#### **II. Approval of Agenda**

Larry Anderson has one announcement to make.

Ben moved for approval. Jeff seconded.

#### **III. Public Comment**

Commissioner Barbara Fredericks expressed her concerns about the Environmental Health (EH) fees for small restaurants. She has received several comments from a small caterer and several small restaurants in the Albion area. The fee increase, which for some, particularly small restaurants (15 – 25 seat restaurants) is \$250, is quite high. Her concern is that the increase may force some of the small business owners out of business, particularly due to the tough economic times in Albion. Barbara had a conversation with Ted and

suggested looking at a new fee avenue for the smaller restaurants. Possibly consider a third level to Simple and Complex. Owners of those small restaurants have contacted Barbara and stated that the increases are high and steep. Barbara also asked if, during conversation today, Ted could also explain the Lead Test fee increase.

Commissioner Kate Segal joined the meeting. Once introducing Kate, Larry asked for introductions.

Larry stated that some of those concerns were expressed at previous meetings, and asked Barbara for suggestions.

Barbara suggested that if the proposed fees need to remain as they are, we should consider developing a fee for small restaurants considering the calls she received. Seating capacity may be a good way.

Larry: The proposed fees do not reflect the size of the restaurant, but how we inspect restaurants.

Barbara feels that restaurants that have health problems should be inspected more than those that don't. A \$450 fee is large for everyone but for others, it is extremely large.

Ted Havens stated that he fully recognizes that this is a new approach, and can be controversial. The risk is what we are looking at. The risk is the same for a small establishment as it is for the large. A small establishment doesn't have as large of volume, however, the risk is the same. Our new approach addresses the risk.

Greg Purcell: Are there any numbers indicating how many restaurants have 25 or less seats that are in the Complex category?

Ted: There are 83 restaurants in the 0 – 50 seating category. Approximately 50% of these are restaurant chains. The remaining restaurants are the smaller/mom-and-pop. Of these "mom-and-pop" restaurants, they are 50-50 for Simple and Complex.

Barb: Why didn't we base our fees on the type of rate schedule we currently have in place rather than increase all restaurants to \$450, increasing smaller restaurants fees by \$250?

Larry: Fees are based on the time it takes to inspect a restaurant. We have to be fair to everyone.

Ted: The reason that we didn't pursue a similar fee schedule is due to the risk involved in food handling as opposed to seating, which was based on sanitation. Sanitation is a factor, however, not as high of risk as food preparation.

Greg clarified Barbara's question -- if the Complex category can be two-tiered for both large and small restaurants, does the restaurant size have any impact on the revenues and the completion time of an inspection.

Ted: Are you suggesting a two-tier Complex and Simple. What would the difference be between the one-tier and two-tier?

Greg: Does it take you more time to do a large restaurant than a small restaurant?

Larry: Pose the question back, we would have to go back and have another public hearing, present to the Board of Commissioners, does the county have the revenue to support this?

Nancy: Would not have to go back to modifications to reduce one level. Several restaurants do not understand fees. This Health Department has undercharged restaurants in past years. It's only been in the last few years that we have taken a realistic view. We have to be able to take a look at the fee we are suggesting, compared to what they would have paid all along with the gradual increases, the fees are similar and, in many cases, less than. Our proposed fees will begin to bring the fees closer to what we should have been charging all along.

George: Our proposal is not revenue driven, it's cost recovery driven. Second, we estimate that we are below Jackson and Kalamazoo Counties. We are below our actual cost for the service. We don't do a good job of allocating fixed cost to these overheads. We underestimate our variable cost and haven't included fringe benefits to the FTEs, transportation, etc. that consists of variable overhead. The fixed overhead of county allocation. For example, when the Commissioners' pay was decreased, we cut salaries below and light years from where other counties are. When their pay was increased, we increased tremendously, but lower than many surrounding counties. This is not covering our cost, but we are getting closer to recovering our costs. Does the increase place a burden on the smaller restaurant, but cover our cost? I do not think we should approach a two-tier system. We will have to look at the Commissioners to cover cost.

Ben: We are recovering the cost of the inspection that was handed down from the State. If we want to lower standards, our representative should be contacted. Cost: 300 days, 16 seats, 1,800 people, only served one item at one time, penny increase for each item, \$480. Unfortunate but it's reasonable.

George: The fact is those costs are not ultimately going to be absorbed by the patron. This is the least objectionable of the options.

Ted: These fees are based on the 02/03 budget. Not having the 03/04 budget in place, these fees will not cover all expenses. Fees also include training that we will provide at no additional cost to the operator if they send their employees to the Health Department. A company called Maximus evaluates revenue fees for several counties to recommend reasonable fees for their EH fees – that's always an option.

George: Maximus should be explored. We are dealing with a cost recovery issue, but Barb's point should be well taken -- why not go after repeat violators? He and Larry have discussed. What are the actual costs associated with enforcement of the health code. A recent example included an establishment that was shut down several weeks ago (dedicated FTEs/staff to close, research, assess situation, corrected, complete process, etc.). Activities associated with the enforcement are not being recognized. The costs far exceed our fees.

Larry: Thanked Barbara for her comments.

Barbara felt that if we keep the proposed fees as they are, we are sending a bad message to the public. She suggested that we send a message to the public via newspaper, letter, etc. stating how our costs compare to surrounding counties. She suggested allowing clients to pay their annual fee on a quarterly or payment plan.

#### **IV. Consent Agenda**

Consent Agenda. Ben moved, Jean seconded.

Jeff Mitchell stated that the Health Department can make a career out of violators. Regarding the August 19<sup>th</sup> meeting minutes, Jeff referred to page 6. Jeff also asked about page 9 in the minutes -- two-year 0% lease, then further along in the minutes, we state that we purchase the equipment. Is it a purchase or lease?

Kathy: Capital lease. Lease for two-year at the end of the lease, we own.

With those corrections, Ben moved. Jeff seconded. Approved.

#### **V. Resolution 30-2003**

Nancy made a correction to the food code changes items 3.1 and 3.6—change from employee to supervisor.

George: former 3.5 and 3.6 are now combined. The concern was having someone certified 24/7 at these operations, particularly the smaller operations that Barb was referring to earlier. Someone will be available for technical assistance at all times, but not on-duty at all times.

Jeff: What does regularly available mean?

George: Regularly means they are available at all times, but they "can take a vacation." They can answer questions via telephone.

Jeff: Does the definition need to be included?

Ted: The certified individual has accessibility at all times.

Heidi: Several restaurant owners felt that we were stepping into the operations of their establishment. After further discussion, it was decided that it wasn't up to the HD to tell a restaurant how to run their business. It is to the restaurant owner's benefit to have at least one certified individual accessible.

George: The risk of loss, for lack of better words, has to be shifted to the restaurant. Ultimately, they will have to comply with the existing health code, they will have to determine how they will do that. Our role is on the enforcement side, the risk of loss/burden shifts to them. The word "regularly" was suggested by the owners.

Greg: Refer to the last sentence in 3.5. What if a restaurant has two facilities/franchises? Are they required to have two separate certified individuals?

George: Each restaurant will have someone available at each of those franchises. We are forcing restaurants to have one person per facility. If one person is the owner of two units, they can not be available for both locations.

Jeff: If phone consultation is the minimal standard?

George: Phone consultation is only OK in certain situations. For example, what does the grill temp need to be versus is this meat OK to save or toss it?

Jeff: The purpose of this individual is consultation or interpretation. Who will ask/answer the question if this person is on vacation.

Ted: If a restaurant receives a shipment of food that is only partially frozen, who do they call. They can call us or their certified individual. It is up to the certified individual to train their staff.

George: The burden has to be shifted to the operator. Minimum standards we can uniformly spread across all restaurants. The restaurants have to make the determination as to how many individuals should be certified.

Larry: Motioned to approve resolution 30-2003 with the modifications.

Ben moved. George supported.

George: Can we develop some administrative guidelines to determine "regularly"? An internal discussion was suggested to resolve this issue.

Jeff: First, as a minimal standard, would be fine with an internal definition. Second, as a public health issue, this is a transition to a higher standard.

No one disagrees with Jeff.

Approved.

### **Resolution 31-2003**

Heidi was unable to resolve the issues around this amendment.

Nancy: What they are proposing for 03/04 is an amendment of a contract that does not exist. The other issue is we can't get commercial insurance. Addressed the layoff issue. Nancy is not concerned that timeliness is an issue, and layoffs should not occur.

Greg: According to Nancy we need a new contract. Message to the Board, we will not be laying off staff because of the contract language and contract non-approval.

George provided an example (we would lease to them for approximately six months because we could not get through to the FIA to resolve lease agreements. They almost put legal hurdles in place in order to resolve agreements).

No action needed.

**Resolution 32-2003** -- Heidi stated that the BOH approved the contract with the Department of Environmental Quality. This is our standard contract for water, radon, etc. George moved. Ben seconded.

Nancy: Is this part of the contract plus the amendments. Nancy has not reviewed amendments yet.

Heidi confirmed that amendments were just received last week separate from the contract.

George: Approved based on legal review.

Approved.

## **VI. Finance report:**

Kathy Ferguson: County tax dollars subsidize Environmental Health \$300K/\$400K per year. Kathy explained that at this time, we are showing an excess of revenue over expenses of \$28K. Several positions have remained unfilled longer than expected. We expect to have about \$70K to carryover for the NCBC.

Jean Cook-Hughes: About our training budget, why has it increased so much from previous years?

Kathy: We received money for Bioterrorism that mandates that we spend the funds on training.

## **VII. Other Business**

Heidi summarized the Public Health Trends handout.

Other highlights of our programs are as follows. At the Nursing Clinic of Battle Creek (NCBC), we are looking at the pharmaceutical issues and programs. Distribution – people will look at the easiest way to get free medications. Heidi

also noted that we are sponsoring a visit from the Michigan Surgeon General to discuss Lead.

The NCBC is once again picking up the plans that were put in place, previously put on hold due to talks of the NCBC merging with the Family Health Center. Also, the consultant, Lena Hackett, has been approved for another 12 days.

George: Regarding the NCBC and the pharmaceutical costs, he knows that there are a number of individuals within the community interested in supporting the NCBC. How is it that we ensure the NCBC's existence? There is a political tie to the Health Department that needs to be recognized, public health concern with the NCBC. Need to preserve that tie.

Heidi: We are looking at what the best relationship is.

George: To be able to garner outside revenue sources (due to Federal dollars).

Jean: What are the revenue sources to the NCBC.

Heidi/Kathy: Approximately one-half comes from the Federal Government, substantial amounts come from outside sources, BCHS, Senior Millage, donations, etc.

George: The excitement is real positive.

## **VIII. Board Business**

Larry: We are about to join the policy governance network. Training opportunities offered on September 22nd at Noon for board members and executives. Will also discuss Ends policies. \$5 for lunch. Approximately \$250 membership fee. Provides interaction between other Boards that use Ends policies.

Ben: Last Board meeting we discussed an article relating to teen pregnancy preventative measures. This led to the discussion of individual Board of Health members speaking on behalf of the Board. Ben thought it was inappropriate for a member to make a decision on behalf of the Board.

Larry: A Board should bring as many opinions as possible to a Board meeting. The Board should speak with one voice. Majority of the voice agrees.

George: Issue does need resolution. We can reach a point where Ben is comfortable with the policy. The difference between this Board and other Boards is that this Board serves as a representative for the public. We carry a different role than a Corporate Board. We voice as a representative for the public. Vote in favor of a partial resolution. Dissent is desired, but at the same time, we are going to take a public position, we can't have Board members dissenting from that public decision. There's a balance between our policy and where Ben is at. We need substantial discussion. Think on it for another month. Need to discuss in extent at further meetings.

Ben: Feels that we shouldn't have a Board where we all have to think one way or the other. Should not be denied to serve on the Board or speak on behalf of the Board because of the policy.

Larry: Makes it difficult for the Board. Larry has background for Heidi to distribute to others.

Jean: Why does an individual feel they have to acknowledge their presence on the BOH and/or BOC?

Ben: Prevented by this by not identifying Board status.

Larry: Discuss and develop framework for next meeting. Draft some thoughts to distribute to the Board in advance of the meeting.

George: Provision 3B...If I write a letter saying that I disagree with the Board and I am not speaking for the Board. Not speaking for the Board but you are speaking on behalf of yourself.

Jean: Reach a consensus then go out and speak individually, not on behalf of the Board.

Larry: Will bring back for discussion.

Meeting adjourned at 9:55 a.m.