

Food Protection Hearing and Advisory Board Meeting Minutes

Members

Christopher Romm
Sergio Guzman
Michael Chaump
David DeMars
J.P. Pinocchio
George Heinemann
Christopher Thompson

Monday, March 19, 2018

1:00 p.m.

**Washoe County Administration Complex, Building B
Health District South Conference Room
1001 East Ninth Street
Reno, NV**

1. *Roll Call and Determination of Quorum

Recording Secretary Ms. Rogers called the meeting to order at 1:00 p.m. per Chair Chaump's request.

The following members and staff were present:

Members present: Michael Chaump, Chair
Christopher Romm
George Heinemann
Christopher Thompson
Sergio Guzman

Members absent: J.P. Pinocchio
David DeMars

Ms. Rogers verified a quorum was present

Staff present: Chad Westom, Environmental Health Division Director
Tony Macaluso, Environmental Health Specialist Supervisor
Dave McNinch, Environmental Health Specialist Supervisor
Amber English, Senior Environmental Health Specialist
Kim Franchi, Environmental Health Specialist

2. *Pledge of Allegiance

Those present pledged allegiance to the flag.

3. *Public Comment

As there was no one wishing to speak, Chair Chaump closed the public comment period.

4. Approval of Agenda

March 19, 2018

Mr. Romm moved to approve the agenda for the March 19, 2018, Food Protection Hearing and Advisory Board meeting. Mr. Thompson seconded the motion which was approved five in favor and none against.

5. Approval of Draft Minutes

December 20, 2017

Chair Chaump stated for the record that he had recused himself from the December 20, 2017 meeting and would recuse himself from the vote on this item.

Mr. Heinemann moved to approve the minutes for the December 20, 2017, Food Protection Hearing and Advisory Board meeting. Mr. Romm seconded the motion which was approved four in favor and none against.

6. Appeal to staff decision to place food on hold order according to Section 240.045 (B) of the Regulations of the Washoe County District Board of Health Governing Food Establishments. Case #1-18FP

Staff Representative: Tony Macaluso

Mr. Macaluso stated that Delitaly LLC was opened and permitted by the Washoe County Health District in October 2017. A routine inspection was completed in February 2018 by the Environmental Health Services (EHS) Division wherein five critical items were found and a number of non-critical items. He informed that the primary issue was that Mr. Carrano was processing foods in a manner that would require a HACCP and/or a waiver to be approved prior to doing these processes, such as the use of nitrates and vacuum packaging.

Mr. Macaluso informed that EHS staff had discussed with Mr. Carrano that prior approval was required to process foods with nitrates or to vacuum package product and attempted to have him volunteer to discard the product in question. Mr. Carrano then requested to have his case heard before the Food Protection Hearing and Advisory Board (FPHAB).

Chair Chaump inquired if there was any other information the Board should be apprised of.

During the opening inspection, Mr. Macaluso stated that Mr. Carrano was required to hire a Certified Food Protection Manager or take the course himself by the February inspection and that requirement had not been met. He informed that he believed Mr. Carrano had completed that course at the time of this meeting.

Chair Chaump inquired if the applicant was present, and Mr. Macaluso confirmed that he was.

Mr. Romm inquired if EHS had obtained a HACCP plan from Mr. Carrano. Mr. Macaluso informed that they had not.

Mr. Heinemann asked for clarification that Delitaly had been allowed to open without a Certified Food Protection Manager. Mr. Macaluso stated that an applicant is allowed sixty days to fill that requirement and is checked again at ninety days for compliance.

Mr. Romm inquired how long the food involved in this case has been on hold. Mr. Macaluso informed that it has been since the date of inspection, February 20, 2018. He explained the length of time in that there are ten days for the applicant to appeal the decision and then the time it takes to set a meeting with the FPHAB to hear the appeal.

Mr. Guzman inquired if the product placed on hold had expiration dates, and Mr. Macaluso informed that there were none as set by EHS.

Mr. Heinemann inquired how the product placed on hold was being stored. Mr. Macaluso stated that this product was being stored in a deli case, and in a subsequent inspection on February 23rd had found the product at 43 degrees.

Mr. Guzman inquired if EHS had reinspected to check the temperature of the case after February 23rd and Mr. Macaluso indicated that they had not.

Mr. Thompson inquired if the product in the deli case was cryovaced and if the seals were intact. Mr. Macaluso confirmed that was correct, and that the only food product in the deli case that had not been previously was jerky.

Mr. Romm inquired what waiver is being sought by the applicant, as there are multiple issues concerning reduced oxygen packaging, the HACCP plan, etc. Mr. Macaluso informed that there was no waiver being sought, but that Mr. Carrano is appealing the EHS decision to place the food items on hold. He stated that staff is recommending the product be destroyed, and that part of the Board's decision would be whether or not the applicant could keep his product.

Mr. Thompson inquired if there had been any mention that the applicant would cryovac product. Mr. Macaluso stated that, to the best of his knowledge, that there was no indication that Mr. Carrano would be making products preserved by nitrates or by cryovacing.

Chair Chaump inquired if the main concern was the lack of approval and/or quality control for Mr. Carrano's processes. Mr. Macaluso confirmed that was so, and explained that a pre-approved HACCP plan must be in place in order to cryovac product or make products using nitrates. Chair Chaump wished to confirm that there had been no HACCP plan in place when the product was put on hold and if EHS staff recommends the product to be destroyed. Mr. Macaluso confirmed him to be correct on both counts, and noted that the HACCP plan had still not been received.

If issues such as a food product being out of temperature are found during an inspection, Mr. Macaluso informed that EHS staff will try to have the applicant voluntarily discard it. If they prefer not to, then the item(s) are put on hold.

Mr. Heinemann stated that he did not see mention of the vacuum packaging equipment in the Inspection Reports, and inquired if that equipment had been inspected. Ms. Franchi stated that she did not see the vacuum packaging equipment at the facility at the time of inspection.

Mr. Felice Carrano, owner of Delitaly LLC, addressed the Board and expressed that his ignorance of the laws was not justification to break the law.

He informed that he had started making the type of products that were put on hold just after opening the business. He stated that these products have been made in his family his whole life, but not for commercial use. He described his process for making the products containing nitrates and informed of the sources he uses to obtain goods to make them.

Mr. Carrano stated that his customers praise his product and, to his knowledge, no one has ever become ill from eating the product. He stressed that he is very careful with the processes he uses.

Mr. Carrano stated he made the mistake of not taking the Food Safety Course when instructed to, but that he has since done so and passed with 91%. He informed that he learned a good deal in the process of preparing for the test.

Chair Chaump inquired if Mr. Carrano understood what the Health District has asked him to do. Mr. Carrano stated that he had been waiting for this moment.

Mr. Romm asked Mr. Carrano to explain the process he used to make the sausage, and Mr. Carrano obliged, detailing the process and recipe.

Mr. Thompson inquired the quantity prepared at one time, citing the concern for the product to fall out of a safe temperature range. Mr. Carrano stated he did not process more

than 15-20 pounds at a time.

Mr. Guzman inquired if Mr. Carrano had begun the process for the HACCP plan. Mr. Carrano stated he is working with Mr. Alan Cook to develop that plan for his restaurant.

Mr. Guzman stated that it was not the Board's intent to question the flavors of Mr. Carrano's product, but to follow procedures as outlined by the law. He stated that the proper procedure would have been for Mr. Carrano to approach the Health District and inform them that he wanted to begin producing these foods to obtain their guidance and proper authorization. Mr. Carrano expressed that he understood.

Mr. Guzman opined, now that Mr. Carrano has this information, he can begin his business again and produce foods as he becomes authorized to do so.

Mr. Romm inquired if Mr. Carrano had professional training to be use nitrates in food production and how the nitrates are measured. Mr. Carrano informed that he is a chef and had worked in twenty-seven countries and has diplomas from some of those, and that the nitrates are measured by weight at two grams per ten pounds of meat.

Mr. Romm inquired if Mr. Carrano's recipes that include nitrates had been reviewed for approval, explaining that some of the companies that produce nitrates will review recipes to certify they are safe. Mr. Carrano stated that he had not submitted any recipes for review.

Chair Chaump reminded the Board that the case before them is an appeal of the hold order placed product at Delitaly, and whether to uphold staff's recommendation that the product be disposed of. He stated that, while it seems that Mr. Carrano has extensive experience in preparing a good product, without a HACCP plan in place at the time the product was produced, the Health District cannot verify this product is safe for consumption.

Chair Chaump explained that the product that is on hold would be a liability to both Mr. Carrano and the Board should it cause illness. He stated that Mr. Carrano still needs to put the HACCP plan in place, and inquired when he expected it to be done. Mr. Carrano replied that he was not sure how long it would take because of the scope of work.

Chair Chaump inquired how much product is on hold, and Mr. Carrano replied that it was approximately worth \$3,000 in sales, but wasn't sure of the cost to produce the product. Mr. Carrano explained that it would be a financial hardship for him to have to dispose of the product because of monies he has invested to support the business.

Mr. Thompson stated that he believed Mr. Carrano produces a good product and opined that the other Board Members who are all in the food industry believe him. He stated that his main concerns were the potential for liability and, that if Mr. Carrano were allowed to keep the product on hold, it would set a precedent others could cite in order to keep product that may not have been prepared with the care of Mr. Carrano. Therefore, Mr. Thompson stated that he believed that the Board should follow the recommendation of the Environmental Health Services Division.

Mr. Thompson moved that the Food Protection Hearing and Advisory Board follow the Health District's directive to destroy the food placed on hold at Delitaly with the intent that Mr. Carrano will obtain the HACCP plan prior him producing foods containing nitrates, and there will be a Food Protection Manager on site. Mr. Romm seconded the motion which carried five in favor and none against.

Chair Chaump clarified the recommendation is for the Board to advise the District Health Officer to deny the appeal and order the owner or person in charge of the food which was placed under hold order to denature or destroy such food.

7. *Board Comment

There was no Board Comment.

7. *Public Comment

As there was no one wishing to speak, Chair Chaump closed the Public Comment period.

8. Adjournment

Chair Chaump moved to adjourn the meeting at 1:31 p.m. Mr. Romm seconded the motion which was approved five in favor and none against.

Possible Changes to Agenda Order and Timing. Items on the agenda may be taken out of order, combined with other items, withdrawn from the agenda, moved to the agenda of another later meeting; moved to or from the Consent section, or they may be voted on in a block. Items with a specific time designation will not be heard prior to the stated time, but may be heard later. Items listed in the Consent section of the agenda are voted on as a block and will not be read or considered separately unless withdrawn from the Consent agenda.

Special Accommodations. The Food Protection Hearing and Advisory Board Meetings are accessible to the disabled. Disabled members of the public who require special accommodations or assistance at the meeting are requested to notify Administrative Health Services in writing at the Washoe County Health District, PO Box 1130, Reno, NV 89520-0027, or by calling 775.328.2416, 24 hours prior to the meeting.

Public Comment. During the "Public Comment" items, anyone may speak pertaining to any matter either on or off the agenda, to include items to be heard on consent. For the remainder of the agenda, public comment will only be heard during items that are not marked with an asterisk (*). Any public comment for hearing items will be heard before action is taken on the item and must be about the specific item being considered by the Board. In order to speak during any public comment, each speaker must fill out a "Request to Speak" form and/or submit comments for the record to the Recording Secretary. Public comment for individual agenda items is limited as follows: three minutes for individual speakers.

Response to Public Comment. The Food Protection Hearing and Advisory Board can deliberate or take action only if a matter has been listed on an agenda properly posted prior to the meeting. During the public comment period, speakers may address matters listed or not listed on the published agenda. The *Open Meeting Law* does not expressly prohibit responses to public comments by the Food Protection Hearing and Advisory Board. However, responses from the Board members to unlisted public comment topics could become deliberation on a matter without notice to the public. On the advice of legal counsel and to ensure the public has notice of all matters the Food Protection Hearing and Advisory Board will consider, Board members may choose not to respond to public comments, except to correct factual inaccuracies, ask for Health District Staff action or to ask that a matter be listed on a future agenda. The Food Protection Hearing and Advisory Board may do this either during the public comment item or during the following item: "Board Comments – Limited to Announcement or Issues for future Agendas."

Posting of Agenda; Location of Website.

Pursuant to NRS 241.020, Notice of this meeting was posted at the following locations:

Washoe County Health District, 1001 E. 9th St., Reno, NV
Reno City Hall, 1 E. 1st St., Reno, NV
Sparks City Hall, 431 Prater Way, Sparks, NV
Washoe County Administration Building, 1001 E. 9th St, Reno, NV
Downtown Reno Library, 301 S. Center St., Reno, NV
Washoe County Health District Website www.washoecounty.us/health
State of Nevada Website: <https://notice.nv.gov>

How to Get Copies of Agenda and Support Materials. Supporting materials are available to the public at the Washoe County Health District located at 1001 E. 9th Street, in Reno, Nevada. Ms. Laura Rogers, Administrative Secretary to the District Board of Health is the person designated by the Washoe County District Board of Health to respond to requests for supporting materials. Ms. Rogers is located at the Washoe County Health District and may be reached by telephone at (775) 328-2415 or by email at lrogers@washoecounty.us. Supporting materials are also available at the Washoe County Health District Website www.washoecounty.us/health pursuant to the requirements of NRS 241.020.