



Creating a State of Health

MINUTES OF REGULAR SCHEDULED PUBLIC MEETING

This meeting of the Food Service Advisory Council, scheduled to begin at 9:30 a.m. on this twelfth day of December, 2018 was convened in accordance with the Oklahoma Open Meeting Act [25 O.S., §§ 301 et seq.] Further, an advance public notice that was sent to the Secretary of State's Office of Administrative Rules by Facsimile December 13, 2017, prior to this time today, specifying the time and place of the meeting here convened, preceded this meeting. Notice of this meeting was given at least twenty-four (24) hours prior here to and no one filed a written request of notice of meetings of this public body to date.

PUBLIC BODY: OKLAHOMA FOOD SERVICE ADVISORY COUNCIL

DATE: WEDNESDAY, DECEMBER 12, 2018

ADDRESS: OSU TULSA CAMPUS, TULSA ROOM, TULSA, OK

CONTACT PERSON: TERESA MARTINEZ TELEPHONE: (405) 271-5243

Agenda Item 1:

Open Meeting Act

Bill Ricks announced the filing of the meeting and posting of the agenda in accordance with the Oklahoma Open Meeting Act.

Agenda Item 2:

Call to Order

Bill Ricks called the meeting to order at 9:30 a.m. at the OSU Tulsa Campus, Tulsa Room. Teresa Martinez called roll and a quorum was met.

Council members present: Phil Maytubby, Scott Yates, Roy Escoubas, Brenda Potts, Harold Kelly, Erica Hering, DeBrena Hilton, Bill Ryan, Jim Hopper, Krista Neal, and Bill Ricks

Council members absent: Larry Bergner and Michael Farney

Staff present: Tabbatha Revas French, Alicia Burkett, Phillip Jurina, Lynnette Jordan, Sam Cannella, Teresa Martinez, and Andrea Rice

Others present: Koen Vermeaylen and Celeste Parker

Agenda Item 3:

Review and Possible Action on Approval of September 12, 2018 Meeting Minutes

Scott Yates made a motion to approve the minutes. Brenda Potts seconded the motion.

Roll call

Aye: Phil Maytubby, Scott Yates, Roy Escoubas, Brenda Potts, Harold Kelly, DeBrena Hilton, Bill Ryan, Jim Hopper, Krista Neal, and Bill Ricks

Abstain: Erica Hering

The motion carried.

Agenda Item 4:**Department Report – OSDH Staff****a. Licensing & Inspection Update**

The summary of establishments and the last page of the no inspection listing were provided. The fiscal year is being transitioned to a calendar year for mandate tracking. The reports provided reflected a fiscal year, however, the reports provided at the next meeting will reflect a calendar year. Consumer Health Service is working toward FDA funding. In the future this could lead to visiting the manufacturing program standards. A question was raised if, at that time, would Tulsa and Oklahoma Counties become sub recipients. An answer was not available at this time.

b. Council Appointments

Koen Vermeylen is the nominee put forth by the Restaurant Association to hold the Grocer position on the Food Service Advisory Council.

c. Quality Improvement Project – Food Inspections

The QI meetings have been placed on hold for a time. In order to proceed, data needs to be gathered and this will take time.

d. Update on Online Licensing Systems

The online payment system, when available, will start with the Sanitarian and Environmental Specialist program. Customers will be led to a web link if they prefer to pay online. There will be a convenience fee of \$4.00 and a 2.25 percentage of the license fee that will be charged to the customer.

An awardee has been chosen for the new licensing system, which will include online licensing. Food service is planned to be the initial program for this system.

e. Update on Department Budget

There is no report to provide at this time. The agency is aware of the request for this report and is still working toward being able to provide it.

f. Update on Agency Rule Process

OAC 310:250 Fee Schedule for Consumer Health Service is the only rule moving forward for the 2019 legislative session. Lodging, manufacturing, 257, and water vending rules that were proposed will have drafts sent out in anticipation of the 2020 legislative session.

Agenda Item 5:**Review, Discussion and Possible Action Regarding Proposed Changes to OAC 310:250**

There has been a constituent request to change the regulations concerning the temporary food license due to the excessive increase charged. This will set a cap on price and number of days of a temporary event fee and will reduce the \$40.00 a day over 3 days, down to \$30.00. With the proposed rules it will be a 14 day maximum consecutive days at \$250.00. If the event lasts longer than 14 days, another temporary license can be issued. Based on previous temporary event licensing data, there have only been a handful of events that may carry over or last the 14 consecutive days.

In OAC 310:250, drug manufacturing fees were also identified for update. There are 3 licensed in the state. The proposal is to change the initial, renewal, and late renewal to reflect the same as food manufacturing fees.

The other rules proposed for update by the service area will be reviewed and updated over the course of the next year in an effort to be put forth during the 2020 legislative session.

Jim Hopper made a motion to approve the proposed changes to OAC 310:250 Fee Schedule for Consumer Health Service concerning the temporary food license and drug manufacturing fees. Harold Kelly seconded the motion.

Roll call

Aye: Phil Maytubby, Scott Yates, Roy Escoubas, Brenda Potts, Harold Kelly, Erica Hering, DeBrena Hilton, Bill Ryan, Jim Hopper, and Bill Ricks

Nay: Krista Neal

The motion carried.

Agenda Item 6:

Discussion and Possible Action Regarding Micro-Markets

This is a vending unit operation that has expanded, but it is not actual vending machines. Micro-markets are typically located within an individual business, where only employees have access. Employees have access to all pre-packaged foods, such as salads, yogurt, sandwiches, coffee, soda fountains, etc. Everything is prepared at a licensed commissary, then delivered to the location. If the temperature goes out of the refrigerated items, the cooler will lock. The company has requested that they not be required to have a license or if licensure is required to have a reduced license fee. The Oklahoma Tax Commission considers this facility to be a retail sales venue so they will not be exempt as a vending unit. The agency has determined that, due to how the statute reads, if you are selling food to the public, a license is required. One of the questions posed to the Council, is this establishment different in that it would be allowed to not have a license required or a reduced license fee.

The second request that the vending unit operator made was, if they are required to have a license, to have the inspections scheduled. It is not the current statewide process to have scheduled inspections. Unannounced inspections are performed to identify what is happening at that point in time and work with the facilities to correct any violations. A comment was made that, even though this type of facility is not manned, there should be someone within the business that is in charge of taking care of it and alerting someone if there is a problem. This person could walk the inspector to the food area.

The third request that was made was to keep the locations confidential. This cannot legally be done due to the Open Records Act. Once a license is issued, the information is open to the public.

Celeste Parker with FDA spoke about the Conference for Food Protection concerning this issue. At the 2018 bi-annual meeting there was a recommendation that the FDA Food Code have supplemental language added to the definition of what is inclusive of a food establishment concerning unattended facilities such as this as they sell TCS (Time & Temperature Control for Safety) foods. There was also proposed language concerning the assignment of a person in charge of these type of facilities on how to address the lack there of. The language was accepted by the voting delegates and recommended to FDA. FDA did recognize and accept the language. This has not been placed into their code at this time; however, it is anticipated that it will be included in the 2019 Food Code Addendum. The recommendation in 2018 was to recognize them as a food establishment.

A comment was made that if this type of facility did not exist, the employees would be going to a facility that had paid for a food license. They are feeding people, do not want to make them sick, and everyone else has to have inspections performed, paid a plan review fee and license fee. Another comment was made about not being in favor of a variance from the license and inspection as it is not fair across the board. A comment was made that these are like a convenience store or a Dollar General and that there isn't a person there at all times is irrelevant to the need for licensure and inspection.

The Legal Department at the Oklahoma State Department of Health determined by statute micro-markets should be required to have a license. In addition, while it is an administrative process to perform unannounced inspections, to do announced inspections for a certain business would not be the ethical thing to do and has advised against it. They also determined that what OSDH licenses is open records and cannot be kept confidential based on the Open Records Act.

If the Council disagrees with the agency's findings, the regulations would need to be changed accordingly and the council would have the authority to make the recommended changes.

Further discussion identified micro markets already licensed within the jurisdiction of the Oklahoma City County Health Department.

Bill Ryan made a motion to support and not deviate from the advice of OSDH and Legal Counsel and not consider waivers or exceptions to the licensing and inspection requirements. Jim Hopper seconded the motion.

Roll call

Aye: Phil Maytubby, Scott Yates, Roy Escoubas, Brenda Potts, Harold Kelly, Erica Hering, DeBrena Hilton, Bill Ryan, Jim Hopper, Krista Neal, and Bill Ricks

The motion carried.

Agenda Item 7:

Review and Possible Action Regarding Meeting Locations for 2019

The proposed locations for the previously approved 2019 meeting dates are:

2/5/19 – 6728 S Hudson, OKC 73139

6/19/19 – Kerr/Food and Ag Products Center, OSU Campus, 320 N Monroe, Stillwater 74078

9/11/19 – Couch Cafeteria, Norman OU Campus, Davenport Room 2nd floor, 333 4th St. Norman 73019

12/11/2019 – Tulsa Health Department Room 231, 5051 South 129th East Ave., Tulsa 74134

Phil Maytubby made a motion to approve the locations listed for the 2019 meetings. DeBrena Hilton seconded the motion.

Roll call

Aye: Phil Maytubby, Scott Yates, Roy Escoubas, Brenda Potts, Harold Kelly, Erica Hering, DeBrena Hilton, Bill Ryan, Jim Hopper, Krista Neal, and Bill Ricks

The motion carried.

Agenda Item 8:

Old Business

None

Agenda Item 9:

New Business

Phillip Jurina announced that the Medical Marijuana processing rules were approved Board of Health and are waiting for the governor's signature.

Agenda Item 10:

Announcements

OSDH has had a few recent staffing updates: Laurence Burnsed is the Interim Deputy Commissioner for Prevention and Preparedness Services. Anthony Lee is the Interim Director for Acute Disease Service.

Phil Maytubby announced that Oklahoma City has their Mobile Market up and running. The Mobile Market identifies areas that are considered food deserts and provide a distribution once a week. These areas have difficulty making it to a grocery store.

Agenda Item 11:

Next Meeting Date: February 5, 2019 – Location 6728 S Hudson, OKC 73139

Agenda Item 12:

Adjournment

Jim Hopper made a motion to adjourn. Phil Maytubby seconded the motion.

Roll call

Aye: Phil Maytubby, Scott Yates, Roy Escoubas, Brenda Potts, Harold Kelly, Erica Hering, DeBrena Hilton, Bill Ryan, Jim Hopper, Krista Neal, and Bill Ricks

The motion carried.

The December 12, 2018 meeting of the Oklahoma Food Service Advisory Council adjourned at 11:12 a.m.

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Chair or Secretary Signature

2/5/19

Date Approved by Vote