

FOOD PROTECTION HEARING ADVISORY BOARD (FPHAB) MEETING MINUTES

Members

Matthew Chaump
Lanaii Elkins
Jay Rathmann
Christopher Romm
Christopher Thompson
Rose Wolterbeek
J.P. Pinocchio

**Monday, June 10, 2024
1:30 p.m.**

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

1. *Roll Call and Determination of Quorum

Chair, Michael Chaump called the meeting to order at 1:30 p.m.

The following members and staff were present:

Members present: Michael Chaump (Acting Chair)
Lanaii Elkins
Jay Rathmann
Christopher Romm
Christopher Thompson
Rose Wolterbeek

Members absent: J.P. Pinocchio

Staff present: James English
Lauren Clapham
Olivia Alexander-Leeder
Robert Fyda
Mike White
Mary Kandaras

Ms. Perez verified a quorum was present.

Public Present: Jihoon Ryu (Appellant)

2. *Pledge of Allegiance

Jay Rathmann led the pledge to the flag.

3. *Public Comment

Chair Chaump opened the Public Comment period. Having no public comment Chair

Chaump closed the public comment period.

4. Approval of Agenda

Ms. Wolterbeek moved to approve the agenda of the June 10, 2024, Food Protection Hearing Advisory Board regular meeting. Mr. Rathmann seconded the motion, which was approved unanimously.

5. Approval of Draft Minutes – August 21, 2023

Ms. Wolterbeek made note of a spelling error in her name in the August 21, 2023, minutes and requested correction.

Ms. Wolterbeek moved to approve the minutes of the August 21, 2023, Food Protection, Hearing Advisory Board regular meeting with minor corrections. Mr. Rathmann seconded the motion, which was approved unanimously.

6. Public Hearing to consider the appeal of the Health District's decision to revoke the permit from the facility Bab Café (H17-0237FOOD) at 303 3rd St. Reno, NV 89501 per Section 240.080 of the Regulations of the Washoe County District Board of Health Governing Food Establishments. Case #1-24FP.

Staff Representative: James English

Jim English, Environmental Health Specialist Supervisor for Northern Nevada Public Health, presented the case for revoking the food permit of Bab Cafe, located at 303 3rd Street, Reno, Nevada. He began by providing a detailed history of the facility's repeated and ongoing critical health violations since its opening in the fall of 2017.

Bab Cafe has undergone twelve routine inspections since opening, eleven of which required reinspections due to critical violations. Furthermore, since March 2024 there was 1 reinspection and 5 reinspection's, 1 permit suspension with an opening reinspection which then caused another reinspection, and two office hearings. In 2024 alone, Bab Cafe had multiple reinspection's. The most recent inspection on May 14, 2024, led to another permit suspension, and pending revocation due to persistent violations. On May 16, 2024, an appeal was received. As noted in the staff report there have been repeated violations, one of the key ones is the fact that there is a lack of managerial control at this facility, the facility multiple times did not have a certified food protection manager nor an individual in charge who was well versed in food safety.

Mr. English highlighted the critical violations repeatedly observed at Bab Cafe, which included lack of a certified food protection manager, absence of knowledgeable individuals in charge of food safety, improper food handling, cooling, hot holding, and date marking, and use of time as a public health control. He provided specific examples from inspections conducted in 2024. On March 18, 2024, an inspection revealed eleven violations, five of which were critical, including bare hand contact with ready-to-eat food, improper cooling, and improper hot holding. A reinspection on April 3, 2024, found eight violations, six of which were repeat critical violations. On April 8, 2024, another critical repeat violation for improper cooling and time and temperature control was noted. Office hearings on April 11 and April 23, 2024, were held to review and edit the managerial control policy and discuss a new operational plan to eliminate cooling processes. Despite these efforts, a reinspection on May 14, 2024, found incomplete cooling logs and further critical violations, leading to the suspension of the permit pending revocation.

Mr. English emphasized the Health District's commitment to education before enforcement. The Health District provided on-site training for staff, conducted managerial control courses, and employed Spanish translators to ensure clear communication. Despite these extensive efforts, Bab Cafe failed to maintain compliance and poses a risk to public health. Therefore, based on the facility's continued non-compliance and the critical need to protect the community, Mr. English recommended that the Board uphold the decision to revoke Bab Cafe's permit.

After staff presentation, board members directed questions to Jim English and the inspector, Lauren Clapham. They sought clarification on various aspects of the inspection findings and enforcement actions. Some of the inquiries focused on specific violations observed during inspections, such as the handling of kimchi and chicken, as well as the cooling and hot-holding processes. Additionally, board members asked about the equipment used in the facility, including the availability of food prep sinks and the functionality of rice cookers. They also inquired about the measures taken by the owner to address the identified violations and ensure compliance with food safety regulations. This concluded the presentation by Mr. English and Ms. Clapham.

Chair Chaump asked Jihoon to summarize the situation and explain why the health permit revocation should not be recommended. Jihoon, the owner, admitted to being an investor and operator, rather than having extensive knowledge of kitchen operations. He highlighted issues stemming from the turnover of kitchen managers and his inability to be fully involved due to work commitments in California. Jihoon expressed efforts to rectify violations upon returning to the business and acknowledged missing some details initially. He mentioned plans to improve training and involvement in the business, including obtaining a food protection manager certificate. When asked about his background in the food business, Jihoon mentioned he was a finance major and started the business in collaboration with a friend who was a chef, a partner that has now left the business. The appellant provided handouts to the Board regarding staff training for the facility.

Discussion between the Board members and the appellant occurred where board members raised concerns about Jihoon's ability to manage the restaurant effectively, given his lack of experience and previous violations. Board member Elkins expressed how far above and beyond NNPH staff have gone in order to try and make the business successful, yet the appellant does not seem to understand what needs to be done and is still not following staff direction. Mentioning the handouts provided by the appellant, Board member Elkins stated that the appellant still does not understand the process and that by providing these handouts – it shows that the appellant still does not understand what NNPH staff really wants which is having somebody there watching and understanding what is happening. They questioned his plans for reopening, financial capacity to invest in necessary equipment like a blast chiller, and the adequacy of proposed menu modifications and written procedures.

Chair Chaump reiterated Ms. Elkin's point that staff went over and above more than most board members have probably ever seen to help out and stated that it is difficult for an absentee owner to run an operation without any written procedures or manuals. Jihoon emphasized his commitment to improving operations, acknowledging past mistakes and expressing readiness to dedicate himself fully to the restaurant as he left his other job to be more present. Mr. Thompson stated that while he understood the appellant's story if the appellant took over this

year; however, the appellant has been in charge since 2021 and that 3 years is adequate time to make change. Mentioning the documents provided by the appellant, Mr. Thompson stated these are opening documents for every employee to sign, and, citing the appellant's documents, wearing gloves is written down yet you have been cited many times. Mr. Thompson echoed some of the other board members' concerns about Jihoon's lack of understanding and ability to implement necessary changes effectively.

After Jihoon's statement and Board's questioning of Jihoon, Jim English brought attention to the owner's behavior during inspections, highlighting instances where the owner was present but unable to address concerns raised by inspectors, despite having recently obtained the necessary certification. This raised doubts about the owner's active managerial control over the restaurant's operations, suggesting broader operational issues beyond specific violations like cooling or hot holding.

Chair Chaump clarified the board's role, explaining that they could recommend upholding, modifying, or rescinding the Health District's decision to suspend the operator's permit, contingent upon whether it would pose a substantial detriment to public health and safety.

Mary Kandaras, the Deputy District Attorney, provided further clarification on the conditions under which the board would need to make factual findings regarding potential harm to public health: the Hearing Board may recommend to the District Board of Health to uphold, modify, or rescind the Health District's decision to suspend the operators' permit due to repeat violations if, after the hearing on due and proper notice, it determines by a preponderance of evidence the following: The appeal, if granted, would not cause substantial detriment to the public health and safety of persons living in Washoe County.

Chair Chaump provided a summary on the options presented by NNPH. The Board had the option to uphold the decision of NNPH to revoke the permit due to repeated violations, modify the recommendation to revoke the permit based on additional findings, or rescind the revocation of the permit and reissue the permit to the business owner. Chair Chaump opened the floor for additional board discussion. Hearing no further discussion, Chair Chaump requested a motion. **Ms. Wolterbeek moved to "uphold the decision to revoke the operator's permit due to repeat violations." Mr. Thompson seconded the motion, which was approved unanimously.** Chair Chaump expressed the need for the restaurant to essentially start over in terms of meeting health department standards, regardless of ownership involvement.

7. *Board Comment

Chair Chaump opened the Board Comment period. Having no Board Comment, Chair Chaump closed the Board Comment period.

8. Public Comment

Chair Chaump opened the Public Comment period. Having no Public Comment, Chair Chaump closed the Public Comment period.

9. Adjournment

At 2:42 p.m., Ms. Wolterbeek moved to adjourn the meeting. Mr. Romm seconded their motion which was approved unanimously.

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 in writing at the Northern Nevada Health 1001 E. 9th St, Reno, NV 89512, or by calling 775.328.2434 opt 8, 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 to 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 Northern Nevada Public Health 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:

Northern Nevada Public Health, 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
Northern Nevada Public Health Website: www.nnph.org
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 Northern Nevada Public Health located at 1001 E. 9th Street, in Reno, Nevada. You can contact the Environmental Health front desk for requests for supporting materials. The office at Northern Nevada Public Health may be reached by telephone at 775-328-2434 Opt 8 or by email at health@nnph.org. Supporting materials are also available at the Northern Nevada Public Health Website www.nnph.org pursuant to the requirements of NRS 241.020