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President
Laurie Green, M.D.
Vice President
Edward A. Chow, M.D.
Commissioner
Susan Belinda Christian, J.D.
Commissioner
Cecilia Chung
Commissioner
Suzanne Giraudo ED.D
Commissioner
Tessie M. Guillermo
Commissioner

**HEALTH COMMISSION
CITY AND COUNTY OF SAN
FRANCISCO**

**London N. Breed Mayor
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MINUTES
HEALTH COMMISSION MEETING
Tuesday October 18, 2022 4:00 p.m.
101 Grove Street, Room 300
San Francisco, CA 94102 & via Webex

1) CALL TO ORDER

Present: Commissioner Dan Bernal President
Commissioner Laurie Green, MD, Vice President
Commissioner Edward A. Chow M.D.
Commissioner Cecilia Chung (*left meeting at 6:22pm*)
Commissioner Suzanne Giraudo, Ph.D
Commissioner Tessie Guillermo

Excused: Commissioner Susan Belinda Christian, J.D.

The meeting was called to order at 4:04pm.

**2) LAGUNA HONDA HOSPITAL AND REHABILITATION CENTER (LHH) CLOSURE PLAN AND CMS
RECERTIFICATION UPDATE**

Roland Pickens, Director, San Francisco Health Network and Acting LHH CEO, presented the item.

Public Comment:

Patrick Monette Shaw made verbal comments and submitted the following summary:

The Closure and Re-certification presentation mentioned the path to recertification. The tentative re-certification timeline presented to the Board of Supervisors on 6/14/2022 indicated forms for CMS enrollment (re-certification) was planned for a mid-August submission, with a CMS final re-certification survey inspection by 12/2022. The presentation also mentioned the sudden *settlement agreement* may push re-certification 13 more months, to November 2023. Why does LHH need another full year to become re-certified? City Attorney Chiu's 8/3/22 Northern District of California lawsuit stated "*LHH should not need to be recertified at all.*" Had Chui **not** dropped his lawsuit and appeals — and prevailed — certification would have been automatically restored, preventing permanently eliminating 120 beds at LHH, and would have allowed new admissions to LHH to resume. No muss, no fuss with another year of applying for re-certification. This smokey backroom political deal dropping Chiu's lawsuit and appeals in exchange, is a grave, costly mistake!

Teresa Palmer MD, Gray Panther and Laguna Honda Hospital retired physician, and aging resident, stated that the City Attorney told her the day before the Commission meeting that the settlement is predicated on the LHH closure plan and reduction of 120 beds. She urged continued fighting both the implementation of the closure plan and elimination of the 120 beds. She reminded the Commissioners that many of those previously discharged under the closure plan died. She urged the right to return to LHH for those patients who were inappropriately forced to be discharged under the closure plan. She also stated that we do not need to repeat the 10 years of neglect by LHH management. She urged getting rid of the “Flow Project” and find appropriate housing for those with a primary diagnosis of substance use and mental health issues; do not use LHH as a repository for ZSFG patients. She added that no beds at LHH should be cut, especially with the serious shortage of Medicare and Medi-Cal skilled nursing beds in the Bay Area.

Michael Lyons, member of the Gray Panthers, stated that he is glad to hear of the postponement of the required deadly discharges and the continued funding for a year. However, he is alarmed about the potential loss of the 120 beds. With a 5-year wait to get into LHH, it would make it nearly impossible to gain admission if the 120 beds are lost. He urged for transparency regarding the discussions between CMS and the DPH/LHH; he noted that the community has no idea what is going on. He wants to make sure there is no whiff of the “Flow Project” as LHH moves forward. LHH must be able to determine its own admission policy and residents who were forced to leave under the closure plan should be allowed to return. The DPH must provide more beds for people with substance use and mental health issues. The DPH must work with the BOS to add more Medi-Cal skilled nursing beds.

Melanie Grossman, PhD, MSW, and President of OWL-SF, submitted the following written public comment:

I am a social worker, activist and president of the Older Women's League of San Francisco. I attended the Oct. 18 meeting but was unable to leave a comment. Despite reassurance by the Commission regarding the Flow Project and the fact that those admitted to LHH from SF General are considered stable and not in crisis, patients who are smuggling in drug paraphernalia are obviously still active in their substance abuse disorder and should not be at LHH. The crisis around the decertification of LHH was precipitated by the glaring need for more inpatient drug rehabilitation and mental health beds in our City. Until this problem is seriously addressed by the Health Commission, San Francisco General, LHH and treatment for those in need of serious structured services will remain unresolved.

Commissioner Comments:

Commissioner Bernal noted that the presentation indicates that there will be a CMS survey every 90 days. He asked how these surveys will differ from the recertification survey. Mr. Pickens stated that CMS indicated that the surveys conducted every 90 days could cover all regulatory issues; they may also focus on the areas of deficiencies found at LHH in the last 1-2 years. He noted that CMS indicated that once LHH achieves recertification, CMS will stop surveying the hospital every 90 days.

Commissioner Bernal asked for more information regarding the validation process to determine that there has been sustained correction of issues found in the mock survey. Mr. Pickens stated that the plans of correction submitted for any of the F-tag issues are in the monitoring phase to ensure the corrections have been sustained.

Commissioner Bernal stated that it is great to see the green bars and progress made through the hard work by dedicated LHH staff.

Commissioner Guillermo noted that the LHH JCC discussed the complexity of the implementation of Phase 3 regulations. She asked for clarification regarding how the implementation of these revised regulations will interact with the recertification efforts. Mr. Pickens stated that there is overlap between past survey performance and Phase 3 regulations in terms of patients’ rights regarding search and autonomy. He added that some previously approved plans of correction included addressing contraband and related

implementation of patient searches after they have been out on a pass. He added that Phase 3 regulations deal with appropriate patient searches and care planning. LHH has asked CDPH and CMS to provide clarification regarding previous plans of correction that will not align with Phase 3 requirements. CMS has shared that any new rules will take precedent over previous rules. LHH continues to ask for more specificity to better understand how to handle this situation. Mr. Pickens also stated that there is a small cohort of LHH patients with substance use and behavioral health issues. He noted that LHH has been responsive to changing demographics of San Francisco during the past 20 years. He reminded the Commissioners that there is an admissions committee at LHH consisting of one physician and three nurses. The LHH administration policy includes consideration of substance use and behavioral health issues; admission criteria stipulate that incoming patients cannot be in active substance use or mental health-related crisis. He noted that LHH and the DPH have heard the community members' concerns about Laguna Honda admission policy and patients being "dumped" at the facility. Commissioner Guillermo thanked Mr. Pickens and noted that it is her understanding that Phase 3 regulations do address patients with behavioral health issues to greater degree than previous regulations.

Commissioner Chow thanked Mr. Pickens for the update, noting that the progress achieved has only been made possible through the hard work and dedication of LHH staff. He asked for clarification regarding how LHH will determine it is ready to apply for recertification. He noted that LHH is vital part of the San Francisco Health Network care system. Mr. Pickens stated that the KPIs are based on 6,000 data points ascertained through direct observation on clinical rounds 24 hours a day, seven days a week. There is also medical record review. These data help give better understanding of LHH progress on necessary regulatory issues that will used to determine readiness for application for recertification.

Commissioner Green acknowledged the incredible amount of work LHH staff have done in order to progress to this point. She noted that as part of this recertification effort, leadership has been pulled from other areas of the DPH. She asked for thoughts on sustaining stable leadership after the recertification process. Mr. Pickens stated that the staff deployed to LHH from other areas of the DPH have incorporated themselves into the fabric of LHH and have been welcomed by LHH staff in the process. He noted that the consultants will be providing recommendations on the best long term organization structure for LHH. He added that all those deployed will remain at LHH for the time being.

3) CLOSED SESSION

- A) Public comments on all matters pertaining to the Closed Session. (San Francisco Administrative Code Section 67.15).

Michael Petrelis asked why the Health Commission did not wait until the end of the meeting to go into closed session. He stated that the security guard downstairs was not going to let him use the bathroom because restrooms are closed at 5pm; however, the guard left. It is disrespectful and not healthy to his mental health for him to leave angry because the Commission has not respected the public. He called on President Bernal to resign because he submitted an unsigned resignation letter to the Mayor. There is no way the public can trust him since he submitted the undated resignation letter.

Patrick Monette Shaw made verbal comments and submitted the following written summary:

This full Commission had to have known, and appear to have agreed during a 10/11 Closed Session, it would issue a joint statement announced by CDPH *Press Release* the very next day a tentative "*agreement in principle*" with CMS, CDPH, and the City of San Francisco on developments related to LHH — a proposed settlement agreement about U.S. DHHS administrative proceedings and federal court litigation regarding LHH. The Joint Statement indicated LHH will continue receiving CMS reimbursement for LHH's patients through November 13, 2023. The Press Release

and media coverage suggest there are additional key issues unaddressed in the agreement, including LHH's 120-bed cut and not resuming new admissions to LHH until November 2023 — because the proposed settlement agreement is “*silent*” on both key issues. As you discuss the proposed settlement in today's Closed Session, the Commission must add the 120-bed restoration and resumption of new admissions — before approving this agreement.

- B) Vote on whether to hold a Closed Session in relation to item 3.D below.

Action Taken: The Health Commission unanimously voted to hold a closed session.

- C) Vote on whether to hold a closed session in relation to item 3.E below regarding pending litigation and to assert the attorney-client privilege in relation to that closed session discussion.

Motion that the Health Commission convene in closed session with the City Attorney for the purpose of conferring with, or receiving advice from, the City Attorney regarding existing litigation to which the City and County of San Francisco is a party and proposed settlements as described below and whether to assert the attorney-client privilege in relation to those matters. Discussion in open session concerning these matters would likely and unavoidably prejudice the position of the City in the pending litigation matters listed below.

(San Francisco Administrative Code Section 67.10(d); and California Government Code Section 54956.9(d)(3)).

Action Taken: The Health Commission unanimously voted to assert attorney-client privileged in relations to the closed session.

- D) Closed Session Pursuant to Evidence Code Sections 1156, 1156.1, 1157, 1157.5, 1157.6, and 1157.7; Health and Safety Code Section 1461; San Francisco Administrative Code Sections 67.5, 67.8, 67.8-1, and 67.10; and California Constitution, Article I, Section 1.

**LAGUNA HONDA HOSPITAL AND REHABILITATION
CENTER QUALITY UPDATE REGARDING RECENT
REGULATORY SURVEY ACTIVITY**

- E) Closed Session Pursuant to San Francisco Administrative Code Section 67.10(d); and California Government Code Section 54956.9(d).

PROPOSED ACTION: SETTLEMENT OF LITIGATION: United States Department of Health and Human Services – CITY TO PAY \$203,885.

CITY AND COUNTY OF SAN FRANCISCO, Plaintiff, vs. UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, XAVIER BECERRA, Secretary of the Department of Health and Human Services; and DOES 1-25, Defendants.

(U.S. District Court, Northern District of California, Case No. 3:22-CV-4500)

The Health Commission held a 45-minute closed session.

RECONVENE IN OPEN SESSION

1. If Closed Session is complete, discussion and vote to elect whether to disclose any portion of the Closed Session discussion that is not confidential under Federal or State law, The Charter, or Non-Waivable Privilege (San Francisco Administrative Code Section 67.12(a).) (Action item)

2. If Closed Session is complete, possible report on action taken in Closed Session (Government Code Sections 54957.1(a) and 54957.7(b) and San Francisco Administrative Code Section 67.12(b)).

Action Taken: The Health Commission voted unanimously to not disclose discussions held in closed session.

4) **APPROVAL OF THE MINUTES OF THE HEALTH COMMISSION MEETING OF OCTOBER 4, 2022.**

Public Comment:

Mr. Monette Shaw commented that according to Robert's Rules, public comment should be taken on the vote to disclose discussions in closed session and separately, on the vote to share any closed session actions.

Action taken: The Health Commission approved the minutes of the October 4, 2022 meeting.

5) **DIRECTOR'S REPORT**

Grant Colfax MD, DPH, Director of Health, presented the item.

ANNUAL DPH SUBSTANCE USE TRENDS REPORT SHOWS DECLINE IN DRUG OVERDOSES IN 2021

DPH released the "[Substance Use Trends in San Francisco Through 2021](#)" report with data showing the first decline in overdose deaths in three years. Even with this encouraging decline, the annual count of people dying of overdoses last year remained at crisis levels.

In 2021, 625 people died from drug overdoses involving opioids, cocaine or methamphetamine, an 11% decrease compared to 2020, but still 41% above pre-pandemic 2019 levels. The pandemic likely contributed to the especially high number of deaths seen in 2020.

Fentanyl remained the primary driver of overdose deaths in the city with 75% of overdose cases involving this powerful, synthetic opioid, whether taken alone or in combination with cocaine or methamphetamines. The report also highlighted the deep and profound inequities that persist as Black/African Americans in San Francisco experience an overdose death rate that is five times higher than the citywide total.

DPH also released "[Overdose Deaths are Preventable: San Francisco's Overdose Prevention Plan](#)," a four-point strategic roadmap with new and enhanced strategies to reduce the number of deaths and eliminate disparities associated with drug use in San Francisco. The report includes measurable goals to reduce overdose deaths and increase treatment among people at high risk.

San Francisco has the highest overdose death rate among large California counties, a rate that is similar to other major cities across the United States due to the 2018 arrival of fentanyl in local drug supplies. Data show that overdoses continue to be highly concentrated in the Tenderloin and South of Market neighborhoods but are present in many other areas of the City as well.

The racial disparity in overdose deaths underscores the need for tailored and focused approaches toward overdose deaths and substance use disorders that is informed by the community and supported with sufficient resources to make meaningful change.

In 2021, DPH advanced a number of efforts to save lives and improve the wellness and recovery of people who use drugs. Working with community partners, San Francisco substantially expanded the distribution of naloxone, a life-saving opioid reversal medicine, to more than 33,000 kits. The effort saved lives – distribution sites reported 9,492 overdose reversals in 2021, more than doubling the 4,307 reversals in 2020.

Innovative new programs were also launched last year, including the Street Overdose Response Team, which responded to more than 1,670 calls involving people who had survived a known or suspected overdose. SoMa RISE opened as a drug sobering center, bringing people who are intoxicated on drugs off the streets to sober up safely, receive basic care, and be connected to services.

Meanwhile, DPH offered low-threshold outpatient medications for addiction treatments, such as buprenorphine, at more sites including urgent care, homeless shelters, and on the street, while continuing to expand residential treatment programs to deliver timely and appropriate level of care for people ready to enter overnight programs. San Francisco is now two-thirds of the way toward a goal of expanding its behavioral health bed count by 400 beds.

Under the overdose prevention plan, new efforts are underway to create safe, welcoming “wellness hubs” in multiple neighborhoods for people who use drugs and people experiencing homelessness. The first wellness hub is expected to open this year, with several more to follow in 2023 and will build on the successful elements of the Tenderloin Center in community-centered, drop-in locations that provide overdose prevention services, access to treatment, housing, and other benefits.

MARIA X MARTINEZ HEALTH RESOURCE CENTER

Welcome to the newest member of the San Francisco Health Network family! DPH’s newest Ambulatory Care clinic, the Maria X Martinez Health Resource Center, opened on Friday September 19, 2022. The building is the new home of WPIC’s Urgent Care clinic (formerly 50 Ivy), Street Medicine, WPIC admin, and the Department of Homelessness and Supportive Housing’s (HSH) SF Homeless Outreach Team (SFHOT).

Services provided at the Maria X are focused on serving people who are experiencing homelessness and who are unconnected to care elsewhere in the system. Services provided include urgent care, low barrier medication assisted treatment, integrated transitional primary care, dental, and podiatry. The clinic is anticipated to serve about 5,000 unduplicated clients for over 18,000 encounters this year. It is meaningful that the clinic opened during the National Hispanic Heritage/Latinx Month as this is one of the communities that Maria dedicated her life to serving and who are experiencing increased rates of homelessness in San Francisco.

Maria worked for DPH for 23 years and was serving as the Director of Whole Person Care when she passed away in 2020. Prior to that she served in DPH roles including Deputy Director of Community Programs, Senior Staff to the Director of Health and Chief Integrity Officer. Maria passionately championed the needs of vulnerable populations and brought a racial and equity lens to create collaborations and develop care models for high-risk populations. In her role as Director of Whole Person Care, Maria focused on developing partnerships and an example of Maria’s visionary leadership was the creation of an Integrated Homeless Resources Center which, after her death, was named in her honor by the Health Commission as the Maria X Martinez Health Resource Center.

WPIC is continuing to build out integrated care aspects of the Maria X Martinez Health Resource Center to add in increased behavioral health, coordinated entry, and benefits assistance. The work at the Maria X continues Maria’s life’s work to provide high quality and equitable services to Latinx community members and all of our most vulnerable neighbors.

CELEBRATING THE LIFE OF GARZA

DPH is deeply saddened by the recent passing of Garza, a core member of the Bridge HIV team for 17 years, an HIV prevention unit that is part of the Population Health Division DPH. Garza joined the Community Programs team at Bridge HIV in September of 2005, quickly learning about all the HIV prevention studies we conduct. She was hired as a recruiter but became so much more—she was a true liaison to many communities with whom we work. Garza elevated how we support our communities with programs such as *Hot and Healthy*, a monthly drag production that raised funds for Bay Area HIV/LGBTQ/trans organizations. In addition to

recruiting volunteers to participate in our studies, Garza did community outreach and education about HIV (and later COVID) prevention, and was a peer health navigator for transgender women, providing counseling and linkage to many different types of services. Garza created deep ties over many years with multiple organizations in the community, serving a diverse array of clients, and used her considerable talents to raise funds for these organizations. Garza passed on September 27, 2022, leaving behind a legacy of activism, compassion, and deep community ties. She embodied the heart and soul of who we at DPH aspire to be.

NATIONAL LEAD POISONING PREVENTION WEEK

October 23-29, 2022 is National Lead Poisoning Prevention Week (NLPPW). NLPPW highlights the many ways that a community can work together to reduce children’s exposure to lead in their environment and prevent its serious health effects. In San Francisco, the main source of lead exposure comes from the lead-based paint in children’s homes. The Children’s Environmental Health Promotion Program (CEHP) of DPH’s Environmental Health Branch will participate in NLPPW by continuing its outreach and education to property owners, construction professionals, and families who all play a role in reducing lead exposures. Social media messages will highlight *Fix Lead SF*, a brand-new funding opportunity for property owners to reduce the amount of lead on their property. Construction professionals will be invited to take advantage of *Fix Lead SF* to get training to use safe work practices in all their jobs that disturb lead-based paint. Also, as part of CEHP NLPPW activities, their team will participate in a health fair for San Francisco families with young children, and the Fall edition of *Word on Lead*, a regular CEHP educational bulletin, will be distributed to over 7800 families, medical providers, childcare providers, and a multitude of our partners throughout the City.

MPX UPDATE

LOCATION	TOTAL CASES AS OF 9/13/22 (probable and confirmed)
San Francisco	824
California	5,136
U.S.	27,096
Worldwide	72,457

In alignment with [CDPH’s recent eligibility expansion](#), San Francisco has updated the eligibility for pre-exposure prophylaxis with the MPX vaccine. Added criteria include:

- Persons living with HIV.
- Persons who are taking or are eligible to take [HIV PrEP](#).
- Clinicians who are likely to collect laboratory specimens from persons with MPX.

See the [SF MPX vaccine eligibility criteria](#) for full details.

Since the onset of MPX, DPH has persistently advocated for more vaccines. As a result of these efforts, DPH secured a special allotment of 10,000 additional MPX doses from the Federal government to provide protection for people who were attending large, public events such as Folsom Street Fair and Castro Street Fair.

DPH and its partners administered 100% of the special allotment of 10,000 additional MPX doses from the Federal government during the weeks surrounding the Folsom and Castro Street Fairs. In fact, DPH utilized additional supply to administer 15,965 doses total during this period. The vaccines, which includes first and second doses of Jynneos, were available at various pop-up vaccination sites, neighborhood vaccine clinics, community-based events and events at health system providers.

We are continuing to work with trusted community partners at various venues to reach communities most highly at risk and supporting pop-up vaccine clinics at neighborhood events, including but not limited to:

- 24th and Capp Streets every Friday, Saturday and Monday from 9am to 3:45pm

- Pan Dulce Wednesday at Beaux Nightclub, from 8pm to 11pm on October 19

COVID-19 UPDATE

As of September 29:

- San Francisco's 7-day rolling average of new COVID cases per day is 88 and 40 people are hospitalized, including 8 in the ICU.
- San Francisco's remaining ICU capacity is 34.3% and remaining non-ICU capacity is 19.8%.
- Eighty-six percent of all SF residents have been vaccinated and 75% have received booster dose(s).

DPH in the News

Commissioner Comments:

Commissioner Chow asked where the new Maria X. Martinex Center will be located. Dr. Claire Horton, Medical Director of the San Francisco Health Network and Interim LHH Chief Medical Officer, stated that the new center will be located at Mission and Stevenson streets.

Commissioner Green asked where the public can get access to information regarding appropriate intervals between vaccines. She noted that there is a lot of confusion. Director Colfax stated that the DPH website contains information to provide clarification on these issues. He noted that the DPH aligns with the state and CDC on these matters.

6) ANNUAL COMPLIANCE TRAINING

Maggie Rykowski, Director of the DPH Office of Compliance and Privacy Affairs, presented the item.

Commissioner Comments:

Commissioner Bernal thanked Ms. Rykowski for the presentation and training.

7) OFFICE OF COMPLIANCE AND PRIVACY AFFAIRS ANNUAL REPORT

Maggie Rykowski, Director of the DPH Office of Compliance and Privacy Affairs, presented the item.

Public Comment:

Patrick Monette-Shaw stated that he is shocked to hear that the DPH paid a \$370,000 fine due to EPIC. He assumes this relates to disallowed claims. It sounds like there are lots of holes and gaps in EPIC. He placed a public information request to get the number of physician orders for restorative care referrals and the DPH is claiming the physician referrals are protected through HIPPA, which he thinks is ridiculous.

Commissioner Comments:

Commissioner Guillmero thanked Ms. Rykowski for her presentation, noting that compliance is often a thankless but very important and necessary work.

8) GENERAL PUBLIC COMMENT

Bruce Wright stated that he has developed exercises to reverse sleep apnea within 3-4 weeks, with no external device needed. The exercises cost \$1,500 per person.

Patrick Monette Shaw made verbal comments and submitted the following summary:

What is this Health Commission doing about expanding healthcare beds in San Francisco? What have been this Commission's efforts to fund and open additional skilled nursing facility (SNF) beds in our City to prevent out-of-county discharges that may result in transfer trauma and premature deaths? What have been this Commission's efforts to fund and open 60 to 90 sub-acute SNF beds in our City?

What have been this Commission's efforts to fund and open additional SNF beds in our City for the behavioral health patients who need SNF level of care in a separate facility than a facility (like LHH) for elderly patients who have dementias and other SNF level of care needs, to ensure patient safety of both patient populations, and the appropriate level of care and adequate staffing for behavioral health patients being dumped into LHH where they don't receive the optimal level of care that they need?

9) COMMUNITY AND PUBLIC HEALTH COMMITTEE UPDATE

This item was deferred due to lack of time.

10) OTHER BUSINESS:

This item was not discussed.

11) JOINT CONFERENCE COMMITTEE AND OTHER COMMITTEE REPORTS

Commissioner Guillermo, LHH JCC Chair, stated that at the October 11, 2022 meeting, the committee received and discussed a version of the presentation made to the full Commission in this meeting. The Committee discussed the robust annual LHH Facility Assessment report in addition to the Regulatory Affairs Report. In closed session, the committee approved the Credentials Report and discussed the Performance Improvement and Patient Safety Reports and a quality improvement Medicare Recertification Update and Quality Improvement Closure Plan update.

Public Comment:

Patrick Monette Shaw made verbal comments and submitted the following summary:

Before a meeting was called to order on October 11, a Commissioner was overheard on "hot mic" saying "the dashboard should be discussed in closed session." Obviously, that's not the only thing discussed during the 10/11/22 closed session. This full Commission had to have known, and appear to have agreed during the 10/11 Closed Session, to issue CDPH's Press Release the next day, 10/12, announcing the tentative "agreement in principle" joint statement with CMS, CDPH, and the City of San Francisco on developments related to LHH — a proposed settlement agreement dropping DHHS administrative appeals and federal court litigation regarding LHH. Between October 2021 and October 2022, 115 patients died at LHH, including nine patients who died from transfer trauma post-discharge. Between October 2020 and September 2021, 106 patients died. The greatly needed 120 beds should be restored if only for the number of patients who die at LHH every year.

12) CLOSED SESSION (CONTINUATION IF NEEDED)

The Health Commission completed its closed session business during item 3.

13) ADJOURNMENT

The meeting was adjourned at 7:36pm.