Island County Board of Health
Special Session - Tuesday, February 17th, 2015
Minutes

Members Present: Commissioner Richard M. Hannold, Chair, Commissioner Helen Price Johnson, Commissioner Jill Johnson, Mayor Scott Dudley, Dr. Grethe Cammermeyer, Commander Heather Sellers on behalf of Capt. Frederick J. McDonald (ex-officio member) and Brad Thomas, MD, Executive Secretary to the Board.

Absent Members: Capt. Frederick J. McDonald (ex-officio member)

Call to Order: Commissioner Richard M. Hannold, Chair called to order this Special Session of the Island County Board of Health @ 1:15pm.

Additions or Changes to the Agenda: None.

Approval of Minutes:
Commissioner Richard Hannold, Chair called for the approval of the minutes of the January 20th, 2015 Special Session. Commissioner Helen Price Johnson moved to approve the minutes as presented and Commissioner Jill Johnson seconded the motion. Minutes approved unanimously.

Public Input or Comment: Because this is a Special Session of the Island County Board of Health, only those items on the announced agenda may be acted upon at this session.

Appeal of Denial of Well Site Waiver Request:
Due to a recording error at the beginning of the meeting the following is the script for Commissioner Richard M. Hannold, Chair. The portion of this meeting not recorded was the script captured below.

"This item on the agenda is an appeal of the denial of a well site waiver request. I would like to begin with introductions of each Member of the Board of Health:

Island County Commissioner Jill Johnson
Island County Commissioner Helen Price Johnson
Whidbey General Hospital Commissioner Dr. Grethe Cammermeyer
Mayor Scott Dudley from Oak Harbor
Commander Heather Sellers from NAS Whidbey

I am Island County Commissioner Richard Hannold. I am the Chairperson of the Board of Health, and I am the presiding officer for this quasi-judicial appeal hearing.

Are the appellant, Mr. Schindler and his counsel present?" David Mann introduced himself and Curt Schindler (son of Charles Schindler).

"Who will be presenting the case for the Public Health Department?" Jill Wood, Environmental Health Director responded she would present the case for the Public Health Department.

Commissioner Richard Hannold continued:

"Now, I'd like to go over the general procedures for this hearing so we are all on the same page as to how this hearing will proceed. The general procedure for appeals before the Board of Health, are located in Island County Code 8.01.120.B. As the first order of business, the staff report and staff recommendation will be presented. You will have 20 minutes. Board members may ask questions of staff after the staff report and recommendation are presented. I ask that Board members hold their questions until the staff has finished their presentation. Then, the appellant or his representative will follow the presentation of the staff report with the appeal presentation. You also will have 20 minutes. Board members may ask questions of the appellant or his representative after the appellant has made his presentation. I ask that Board members hold their questions until after the presentation is finished. The Board members may ask follow-up questions of either side at the conclusion of both presentations. This is a 'closed record appeal' which means that no new testimony or evidence will be taken. The Board will rely on the record created by the Health Department, and the arguments of each side. The Board will not entertain objections during the presentations. If the appellant wishes to object

he can discuss it during his presentation. It is important that only one person speak at a time. It is also important that each person identify themselves verbally before speaking, particularly the Board members. The Board will not take comments from members of the general public during this 'closed record appeal' because this is not a regular public hearing, but rather a quasi-judicial hearing involving a specific property and specific parties. However, since this is a public meeting the public may be present and observe this quasi-judicial appeal.

Lastly, I would like to address the Appearance of Fairness Doctrine. The Appearance of Fairness Doctrine requires not only that quasi-judicial public hearings be fair to both sides; but they must also appear to be conducted by impartial decision-makers. The Board members, as the quasi-judicial decision-makers, must not have any conflict of interest that would make us partial or biased. I do not think that any member of the Board has a conflict of interest hearing this appeal but a few questions should be asked up front:"

1. "Does any board member have an interest in the property or the application, or property within 300 feet of the property in question?"
   Commissioner Jill Johnson replied, "No";
   Commissioner Helen Price Johnson replied, "No";
   Dr. Grethe Cammermeyer replied, "No";
   Mayor Scott Dudley replied, "No";
   Commander Heather Sellers replied, "No"
   Commissioner Richard Hannold stated for the record, "No".
2. "Does any board member stand to gain or lose any financial benefit as a result of the outcome of the hearing?"
   Commissioner Jill Johnson replied, "No";
   Commissioner Helen Price Johnson replied, "No";
   Dr. Grethe Cammermeyer replied, "No";
   Mayor Scott Dudley replied, "No";
   Commander Heather Sellers replied, "No"
   Commissioner Richard Hannold stated for the record, "No".
3. "Is there any board member who feels, for any other reason, that he or she cannot hear and decide this appeal in a fair and objective manner?"
   Commissioner Jill Johnson replied, "No";
   Commissioner Helen Price Johnson replied, "No";
   Dr. Grethe Cammermeyer replied, "No";
   Mayor Scott Dudley replied, "No";
   Commander Heather Sellers replied, "No"
   Commissioner Richard Hannold stated for the record, "No".

Hearing "No" from all Board members, Commissioner Richard Hannold, Chair continued:

"The board members do not have a conflict of interest in hearing this appeal and will conduct and consider this appeal in a fair and objective manner. The Appearance of Fairness Doctrine also requires that if the board members have engaged in any ex-parte communication with either the applicants or staff, the substance of any such communication needs to be stated on the record so that all parties have notice and an opportunity at this hearing to rebut the communications. By ex-parte communication, I mean communication about this specific case outside of the official handling of the appeal." Commissioner Richard M. Hannold asked each Board member if they had any such communication and all replied "No". Then he asked: "Are there any further questions by the parties on how this appeal hearing will be conducted before we proceed to arguments? Hearing none, let's move on to the presentations."

The recorder was reset and the rest of this session was successfully recorded and captured by the minutes herein.

Jill Wood, Environmental Health Director presented the Public Health Department's staff report and recommendation regarding the property located at 2834 S. Camano Drive, Camano Island, WA. The site plan map of the undeveloped Schindler property and neighboring developed property involved was displayed via one overhead slide. Ms. Wood recapped the appeal with a chronological overview of events and made the recommendation to the Island County Board of Health to deny the appeal. Time was set aside for questions and answers.

Commissioner Richard Hannold invited the appellant or his representative to speak before the Board.

Mr. David Mann, on behalf of Charles Schindler (son Curt Schindler present) spoke to the Island County Board of Health in favor of approving this appeal. He outlined that ICC 8.09.110 allows for this waiver request and that a strict interpretation of these rules would result in extreme hardship to his client. He asked that the letter written by Charles W. Schweizer dated February 11, 2015 be stricken from the record as it was not presented prior to this closed hearing. Mr. David Mann concluded by making the request to the Island County Board of Health to grant the waiver as allowed under ICC 8.09.110. Time was set aside for questions and answers.

Commissioner Richard Hannold directed the Island County Board of Health to strike from the record and not consider in their decision, the letter written by Charles W. Schweizer dated February 11, 2015.

Commissioner Richard Hannold reminded everyone, to limit the discussion to questions and answers only.

Island County Board of Health redirected any questions to staff after concluding questions and answers with the appellant. Upon conclusion of the appeal, Commissioner Richard Hannold stated the Board will take this matter under advisement and under ICC 8.01.120 the Board will render their decision no later than the next Regular Session of the Island County Board of Health scheduled for March 17th, 2015 at 1:00pm.

Deliberations will be made at a closed session at 12:00pm on March 17th, 2015. An oral decision will be rendered at the Regular Session of the Island County Board of Health at 1:00pm, and a written decision will be mailed to the parties.

Approval of Ordinance HD-07-15: Ordinance HD-07-15 "in re the matter of amending Island County Code Section 8.01.040 to change the schedule of regular meetings of the Island County Board of Health"; will change the regular meetings from the third Monday of each month at 1:15pm to the third Tuesday of each month at 1:00pm. Commissioner Jill Johnson moved to approve Ordinance HD-07-15. Commissioner Helen Price Johnson seconded the motion. Ordinance HD-07-15 approved unanimously.

Presentations:

1. Mary Anderson – Community Health Advisory Board (CHAB) liaison presented CHAB's quarterly update to the Island County Board of Health including:
   a) Progress of food service establishment grades with an end-of-year timeframe for presenting CHAB's suggestions;
   b) New cycle for the Community Health Assessment and asked the Board to help identify community members to participate in this process to get a good cross section county-wide;
   c) Continued efforts to build relationship between Mental Health and Public Health, including work with Human Services and Mental Health Advisory Board (MHAB). Request to the Board to help bridge this relationship;
   d) Linda Lee Martens Community Health Hero Award - currently accepting applications with nominations due by April 10, 2015. The ceremony is scheduled for May 12, 2015

2. Keith Higman – Health Services Director updated the Board on the Quality Improvement Project of the Contract Approval and Review process. At this time, staff is not asking for any action, but only for support to collect the data needed to evaluate the impact of the work already done before asking for any specific changes at a later date.

Contracts: Keith Higman, Health Services Director presented three contracts for consideration:

1. Mariam Ross: Behavioral Health Specialist Agreement for Maternity Support Services/Infant Case Management Program; Contract No. HD-04-2015. Commissioner Jill Johnson moved to approve Contract No. HD-04-2015. Commissioner Helen Price Johnson seconded the motion. Contract No. HD-04-2015 unanimously approved.

2. Opportunity Council: Island County Septic Inspection Intake and Referral Program; Contract No. HD-06-2015. Commissioner Jill Johnson moved to approve Contract No. HD-06-2015. Mayor Scott Dudley seconded the motion. Contract No. HD-06-2015 unanimously approved.

3. WA State Department of Ecology: Island County On-Site Financial Assistance Loan Program; Contract No. L110000, Amendment #2. Commissioner Helen Price Johnson moved to approve Contact No. L1100002, Amendment No. 2. Commissioner Jill Johnson seconded the motion. Contact No. L1100002, Amendment No. 2 unanimously approved.

Legislative Update: Keith Higman, Health Services Director, outlined a number of Senate and House bills of interest to the Island County Board of Health as they relate to health perspectives.

Health Department Report: Keith Higman reported the Island County Planning Commission will be evaluating the county-wide planning policies, including the development of property and the impact this development will have on the health of the community.

Board Comments/Announcements:
Commissioner Helen Price Johnson wanted to identify the good work of the Island County Public Health staff at the Sound Waters event this past weekend.

Commissioner Richard Hannold reminded all members of the Board to participate in no ex-parte communication regarding the Appeal heard today and will follow up with legal counsel for next steps prior to Tuesday, March 17th, 2015 at 12:00pm.

Commissioner Helen Price Johnson asked that a memo on quasi-judicial hearings be sent to all members of the Island County Board of Health from the Prosecuting Attorney's office.

Adjourn: There being no further business before the Board, Commissioner Richard Hannold, Chair made a motion to adjourn; Commissioner Jill Johnson moved to adjourn, Mayor Scott Dudley seconded the motion. Meeting adjourned at 3:24pm.

The next meeting of the Island County Board of Health is a Regular Session on Tuesday, March 17th, 2015 at 1:00pm in the Commissioner's Hearing Room (B-102) of the Annex Building.

Submitted: _____
Brad Thomas, MD

Minutes approved this 17th day of March 2015
ISLAND COUNTY BOARD OF HEALTH

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Commissioner Richard M. Hannold, Chair