

BOARD OF HEALTH PROCEEDINGS
October 6, 2005

Attendance: Commissioner, Lynda Ring-Erickson; Commissioner, Jayni Kamin; Commissioner, Tim Sheldon.

1. Chairperson Lynda Ring Erickson called the meeting to order at 10:04 a.m.
2. **Cmmr. Sheldon/Kamin moved and seconded to adopt the agenda as presented. Motion carried unanimously. K-aye; S-aye; RE-aye.**
3. Correspondence - None
4. **Cmmr. Kamin/Sheldon moved and seconded to approve the regular Board of Health meeting minutes of July 7, and August 4, 2005 as presented. Motion carried unanimously. S-aye; K-aye; RE-aye.**
5. Administrative Issues

- 5.1 Health Officer's Report – Dr. Yu reported that there are flu vaccines available in many locations around the community. The Health Department has only received twenty percent of one their flu vaccine orders. Because of the shortages last year they had split up their order among two different suppliers hoping to get at least twenty percent as an initial order from both manufacturers. Dr. Yu stated there are a lot of respiratory illnesses going on right now but she has not had any confirmations of them being confirmed as influenza. It is a common thing to say a person has the flu, but there are certain symptoms that confirm it as influenza.

Cmmr. Sheldon questioned if there was an expectation of a flu vaccine shortage like there was last year.

Dr. Yu, replied there isn't a guarantee of the supply from the manufacturers because of the production regulations. The Center for Disease Control lists the month of October as the time for the high-risk people to get their shots.

Cmmr. Kamin asked what high-risk is defined as.

Dr. Yu replied it was those that are at risk for complications. Usually the elderly, the chronic heart, lung or diabetes disease, children under the age of twenty-four months, and also health care providers are at risk. She explained that the health care providers are a main source of infection for patients.

Cmmr. Ring Erickson asked if there was a sense of what kind of flu season is expected.

Dr. Yu stated it was much like prediction of the weather, there is no telling because it varies from year to year. There are times that it can be predicted by what is happening over seas, but not always.

- 5.2 Governor's Health Bowl – Mr. Kutz stated that Governor Gregoire has joined forces with the Washington Health Foundation to promote a Healthiest State in the Nation Campaign event this fall. According to the latest edition of America's Health: State Health Rankings, Washington lags behind Minnesota and thirteen other states for an overall health ranking of fifteen out of fifty states. The Governor's Health Bowl is the largest commitment to improve healthy living in the United States. It is a six-week challenge ending October 30, 2005.

Mr. Ben Johnson, Program Coordinator has registered Mason County as a team and has challenged everyone employed at Mason County to individually register as a participant. He receives weekly updates on the team's total points. Currently there are 37 employees that have registered and logged 985 miles with 1,393 total points.

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Dr. Yu, challenged the Board to participate by registering and scoring points on behalf of Mason County and to encourage the other Elected Officials, Department Heads and all staff to enter into a friendly competition for the most points.

Cmmr. Kamin/Sheldon motioned the Board of Health will challenge the other Elected Officials and Department Heads and their staff to register and score points in the Governor's Health Bowl. Motion Carried unanimously. RE-aye; S-aye; K-aye.

Dr. Yu offered to get all of the Elected Officials a step pedometer for tracking their steps while they participate.

Cmmr. Ring Erickson commented that in Clark County they have a "Out Walk the Commissioner" challenge, which could be an option to approach it.

Ms. Heidi Iyall, Community Health Educator, stated that her and Mr. Johnson felt that Mason County was at a disadvantage for getting people excited and prepared to participate by spreading the information before the event began. They have come up with a plan to continue the promotion of the healthy living that the Governor was promoting by creating a countywide challenge between the departments. The kick off would be January 1st and would go through March 30th, 2006. They are creating a health task force to create and facilitate the program. Their ideas are to use a point system to account for the different sizes of the departments. There would be a team leader in each department. The department that wins would get a potluck lunch served to them by all of the other players. The individual with the most points would also be awarded a gift for their accomplishment. The goal is to continue the momentum and interest generated by the Health Bowl.

- 5.3 NACo Prescription Drug Program - Mr. Kutz stated the prescription drug discount card program has been awarded to the Caremark Company. They were chosen as the program provider not only for the price savings, but also for its ease of use and understanding. There would be no cost to participate, no forms to fill out, and everyone is eligible. The cost savings ranges are from 13 percent to 35 percent on purchases of drugs at a local pharmacies and up to 50 percent on mail order purchases. Mr. Kutz stated that people could also save money on any pet prescription filled by a pharmacy. It would not apply to pet medications dispersed at the veterinarian's office. The savings differences are based on brand-named prescriptions versus generic brands. All the pharmacies in Mason County are participating with the program, with the exception of the hospital pharmacy. Mr. Kutz recommended the County participate in the program. He stated that he would fill out the application to enroll in the program and come up with educational information for the local pharmacies and posters for the public to be dispersed countywide. He will present his plan to the Board prior to sending it out to the community.

Cmmr. Kamin asked how the new program differs from the existing pharmacy assist program. She also questioned if the cards would be handed out at the health department and would it cover drugs that an insurance company normally wouldn't cover.

Mr. Kutz believes there would be some drugs that would not be covered and he would find out more about it when he applied. He said that he did understand the program to work only on prescriptions that were not covered under a medical insurance plan.

Cmmr. Ring Erickson stated that there was no decision to be made at this time. Mr. Kutz would work with the Prosecutors Office on the contract and the local pharmacies on the program cards.

6. Personal Health Issues

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- 6.1 No Smoking Policy – Mr. Kutz stated the staff has been working on a policy for Mason County. He requested the staff present the information on the policy at the December 1, 2005 regular Board of Health Meeting. If the information is tabled until December the outcome of Initiative 901 would have occurred and could impact the policy.

Cmmr. Sheldon/Kamin moved and seconded to table the action until the December Board of Health meeting. Motion carried unanimously. RE-aye; S-aye; K-aye.

7. Environmental Health Issues

- 7.1 Hunt Appeal – Ms. Riley read into the record the Final Decision, Findings of Facts and the Conclusions of Law for the Steve Hunt and Sun Beach Mobile Home Park appeal, rendered by the Board of Health. The Board heard the appeal on July 7, 2005.

FINDINGS OF FACT

Based upon the aforementioned testimony and evidence submitted to this Board of Health for Mason County on July 7, 2005. This Board of Health has determined the following ‘Findings of Fact’ relevant: to this Board’s decision:

1. Steve Hunt, on or before 1996, acquired legal ownership interest to the property commonly referred to as ‘Sun Beach Mobile Home Park,’ located at 4255 North Shore Road, Belfair, Washington (Parcel Number 22202-31-00080).
2. At the time of acquisition on or before 1996, the property housed thirteen, available connections to the public water supply system supplied by an on-site well.
3. During the course of acquiring the property, Mr. Hunt removed several units connected to the public water system as well as thinned out trees in the park. Mr. Hunt left five mobile home units and one A-frame home on the property.
4. At the time of acquisition by Mr. Hunt, the water system located within the Sun Beach Mobile Home Park was classified as a ‘Group B Water System’ under the Mason County Health Regulations (M.C.C. 6.64) since the site contained between two to nine connections to the public water system on site.
5. No proof was submitted to Mason County, prior to the Appellant taking an ownership interest in the property in 1996, demonstrating the water system located on the property was approved and complied with the ‘Group B Water System’ regulations. Therefore, the County, in August 1997, considered the water system to be an ‘existing, unapproved Group B Water System.’
6. Steve Hunt, owner of the Sun Beach Mobile Home Park, was issued notice via two letters, one in October 1997 and one in March 1998, by the Mason County Department of Health Services regarding the need for the water system on the property to become compliant with the ‘Group B Water System Regulations’ pursuant M.C.C. 6.64.
7. Mr. Hunt was issued a ‘Notice and Order’ on May 4, 1998 for failing to come into compliance with the applicable water regulations governing ‘Group B Water Systems.’
8. In 1998, Mr. Hunt applied for a ‘Well Site Inspection’ on June 12, 1998.
9. In 1998, upon submission of the well inspection request, Mr. Hunt was informed by Mason County Health Staff for the need of a Variance Request to be submitted to Mason County. This Request stems from the Mason County Health Department’s contention that the lack of use of the mobile home unit connections constituted ‘abandonment’ of the use based upon the requirements pronounced in the ‘Water Adequacy Regulations’ (M.C.C. 6.64).

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10. The Mason County Health Department has no record of a variance being sought by the Appellant nor has the Appellant provided any information to the Mason County Health Department demonstrating a variance was requested and subsequently granted.
11. Mr. Hunt now seeks to move three mobile homes back into spaces formerly occupied in the mobile home park. These three units already possess available connections to the water system and would not necessitate the need for further construction in order to connect the three mobile homes to the existing public water system. If the mobile homes were moved in and connected to the water system, the total number of connections would be nine.
12. To date, Mr. Hunt and the Sun Beach Mobile Home Park continues to use the public water system and well site to serve the water needs of residents living within the Sun Beach Mobile Home Park.
13. Up to the date of this hearing, dated July 7, 2005, the Appellant has never demonstrated proof of certification of 'Group B Water System' approval as meeting the compliance regulation requirements of M.C.C. 6.64.
14. Ms. Hyatt testified, at hearing, it is in the best interest of the public health to require 'Group B Water Systems' approval and compliance with applicable regulations, which serve the general public of Mason County.

CONCLUSIONS OF LAW

1. The Mason County Board of Health has jurisdiction to hear and decide this appeal pursuant M.C.C. 6.04.120.
2. Mr. Hunt, the Appellant, has brought an appeal of the determination of the Health Officer by bringing this matter before the Mason County Health Board pursuant M.C.C. 6.68.070.
3. Mason County Code Chapter 6.64 'Group B Water System Regulations' took effect by Ordinance March 3, 1994, pursuant Resolution 68-96.
4. A 'Group B Water System' means "a water system consisting of two to fourteen connections and/or serving less than twenty-five people for sixty days or more/year" as defined by W.A.C. 246-291.
5. Any public water system, qualifying as a 'Group B Water System', existing prior to the enactment of Chapter 6.64 'Group B Water System Regulations' is deemed to be considered an 'Existing, unapproved Group B Water System.'
6. At the time of acquisition in 1996, the water system located at the Sun Beach Mobile Home Park failed to be compliant with the current regulations required under M.C.C. 6.64.
7. Based upon the facts derived by the testimony and evidence presented at hearing, this Board concludes the Appellant's water system is one classified as an existing, non-conforming 'Group B Water System.'
8. The Appellant has requested moving three mobile units onto the property. A dispute has arisen between the parties as to whether the three mobile home units would constitute replacement structures or additional structures for purposes of application of the 'Water Adequacy Regulations' pronounced under M.C.C. 6.68.
9. The Appellant contends the installation of the three mobile homes units would qualify for exemption under M.C.C. 6.68.020(b)(4).
10. The Mason County Health Department contends the failure to replace

those structures since 1996 constitutes an 'abandonment of use' under M.C.C. 1.05.016.

11. Based upon the facts as derived from the testimony and evidence submitted at the time of hearing, a distinction must be made regarding whether these structures are exempt as replacement structures for purposes of the 'Water Adequacy Regulations' (M.C.C. 6.68) or whether such structures have been 'abandoned' based upon non-use as alleged by Mason County:
 - (A) The term of 'Abandonment' used by Mason County, cited in M.C.C. 1.05.016, is general in nature and applicable to any and all land use disputes. However, Courts for the State of Washington, as evidenced in the Washington State Supreme Court case of *State of Washington v. Acquavella*, 131 Wash.2d 746 (1997), points out general terms are preferred and superceded by narrowly-construed statutory definitions determining a case in issue.
 - (B) Under the 'Scope of Coverage' pronounced in M.C.C. 6.68.020, the narrowly-construed term, 'replacement structures' for mobile home parks is deemed exempt. This provision clarifies to property owners that continual certification is not required to be pursued every time a mobile home unit vacates a mobile home park space and new mobile home unit fills the once-vacated space. Further, no timeline is stated under which a replacement structure must be moved in.
 - (C) Based upon the facts as derived from the testimony and evidence at the time of hearing, this Board finds the Appellant has used and continues to use the on-site water system since 1996. This Board finds no declared pronouncements or actions by the Appellant demonstrating the intention to relinquish or abandon the water system currently on-site based upon traditional notions of riparian (water) law in the State of Washington.
 - (D) Therefore, based upon the direct applicability of the exemption of 'replacement structures' for mobile home parks under M.C.C. 6.68.020(b)(4), this Board finds the three units requested to be moved into the mobile home park would constitute 'Replacement structures' for purposes of the 'Water Adequacy Regulations' of M.C.C. 6.68 and therefore be exempt from the necessity of requiring new system application and certification.

DECISION

The Appeal filed by Steve Hunt on behalf of the Sun Beach Mobile Home Park, located at 4251 North Shore Road (Parcel No. 22202-31-00080) is hereby granted subject to conditions. Mr. Hunt may reconnect those three mobile home units which already maintain pre-existing water system hookup connections since such units are exempt under Mason County Code (M.C.C.) 6.68.020(b)(4). Mr. Hunt must pursue and achieve substantial compliance of certifying this water system as 'Group B Water System' within 90 days of receipt of this decision. Failure to achieve substantial compliance with 'Group B Water System' Certification will result in civil penalty pursuant M.C.C. 6.64.090(d) and/or subject to criminal charges due to non-compliance pursuant M.C.C. 6.64.090(e).

In addition, the Appellant must comply with any and all applicable regulations pertaining to septic capacity on the property. Therefore, the Appellant is not permitted to reconnect such units until such time as the septic capacity is able to support those units. If such reconnection to the 'Group B Water System' deems the septic system to be 'overcapacity' pursuant M.C.C. 6.76. The Appellant shall ensure the septic system supports those reconnections prior to connection.

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Only after achieving county-approved certification as a 'Group B Water System,' may Mr. Hunt and/or owners of the property pursue proper permitting to allow for additional mobile home units to be placed on the property and connected to the 'Approved Group B Water System.' At no time may Mr. Hunt and/or owners of the property place new piping and/or connections to mobile homes not already found existing on the property. Such a knowing violation of law will subject the Appellant and/or property owner to immediate civil penalty and/or criminal charging.

If the Appellant wishes to expand the present system, the Appellant is required to comply with any and all applicable satellite management agency requirements pronounced under M.C.C. 6.64. The Appellant may apply for a variance from such regulations if made to the Mason County Health Department in a timely manner of achieving certification as a 'Group B Water System.' Such a variance must be requested within 3 months of obtaining 'Group B Water System' Certification.

Cmmr. Sheldon said he felt it was very important that all tenants or homeowners that are connected to water systems in Mason County feel that their water is completely safe and that all of the regulations are followed uniformly throughout the county. He feels that the decision made will protect everyone from having bad water.

Cmmr. Kamin concurred with Cmmr. Sheldon's comment.

Cmmr. Ring Erickson stated she appreciated all the time and the staff work that had gone into the decision.

Cmmr. Sheldon/Kamin moved and seconded to adopt the Final Decision: Findings of Fact and Conclusions of Law for the Steve Hunt and Sun Beach Mobile Home Park appeal as stated above. Motion carried unanimously. RE-aye; S-aye; K-aye.

- 7.2 Title 6 Sanitary Code Ms. Riley requested the Boards approval to set a public hearing for revisions to the Title 6 Sanitary Code of the Mason County Code.

Cmmr. Kamin/Sheldon moved and seconded to set a public hearing for November 3, 2005 at 10:30 a.m. to hear the Title 6 Sanitary Code revisions. Motion carried unanimously. RE-aye; S-aye; K-aye.

- 7.3 Environmental Health Waivers/Variations were submitted to the Board. Ms. Riley said there have been many waivers submitted.

8. Public Comment

9. The meeting adjourned at 10:51 a.m. due to no further business.

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HEALTH OFFICER

Diana T. Yu, MD MSPH
Mason County Health Officer

BOARD OF HEALTH
MASON COUNTY, WASHINGTON

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Jayni Kamin, Commissioner

Tim Sheldon, Commissioner