

A special meeting of the Spokane Regional Health District Board of Health for the purpose of conducting a hearing regarding an appeal of an environmental health decision was called to order by Councilmember Mary Verner, Chair, at 12:30 p.m., on Thursday, February 1, 2006 in rooms 320/321 of the Public Health Center, 1101 West College Avenue, Spokane, Washington.

## **PRESENT**

Councilmember Rob Crow  
Councilmember David Crump, Vice Chair  
Councilmember Dick Denenny  
Councilmember Bill Gothmann  
Councilmember Brad Stark  
Councilmember Mary Verner, Chair  
Commissioner Bonnie Mager  
Board Member Margaret Jones  
Board Member Charles Wolfe, MD (arrived at 12:37 p.m.)

## **ABSENT**

Commissioner Todd Mielke  
Commissioner Mark Richard  
Board Member Michael Fisk, DC

Michelle Wolkey was present to provide legal counsel to Health District staff and Rob Binger from the Spokane County Prosecutor's Office was present to provide legal counsel to the Board of Health. Others present to testify at the hearing were John and Sandy Melter, owners of the Skyway Café, David Swink, Director of Environmental Health, and Trisha McClure, Environmental Health Specialist.

## **EXECUTIVE SESSION – Councilmember Mary Verner**

Following roll call, Chair Verner announced at 12:35 p.m. that the board would adjourn to Executive Session with their legal counsel for about 15 minutes to review the procedures for the hearing.

## **RECONVENE MEETING**

The meeting reconvened at 1 p.m. Mr. Binger explained the proceedings.

- The hearing is being held pursuant to Board of Health Resolution #05-06 to consider Mr. Melter's request dated January 2, 2007 requesting a variance or waiver of a penalty in the amount of \$590 that was assessed pursuant to Resolution #05-04. The resolution requires this appeal to be heard within 30 days and, further, that the parties may present testimony and exhibits and that the hearing will be audio recorded. Witnesses will be placed under oath.
- Within a reasonable amount of time after the hearing the board is directed to issue their findings of fact and conclusions.
- Initially Mr. Melter will present testimony and exhibits in support of his appeal followed by Health District staff who will present the Health District's position. Mr. Melter will then have an opportunity for rebuttal. The board may ask questions at any time of any witness and limited cross examination will be allowed as requested by either party.

- Any documents or exhibits for board consideration must be given to Chair Verner. The board will follow the rules of evidence in a very relaxed manner meaning that most all testimony and exhibits will be admitted and the board will then determine what weight to place on each item.
- Following the hearing, the board may deliberate today and issue an oral decision or may continue the matter for decision at a later date.
- As the proceeding is being recorded, speaker will identify himself before speaking. Each party will be limited to ten minutes to present his case unless a request is made to adjust that time.
- The appearance of fairness doctrine is applicable to this proceeding and provides that no board member should talk with any proponent or opponent of this matter before today's hearing. If that has occurred, it needs to be put on the record. Councilmember Stark and Board Member Jones said they had talked to either a proponent or opponent and then affirmed that they could conduct this hearing in a fair manner without any prejudice.
- All witnesses who believed they would testify were sworn in and affirmed that they would answer truthfully to such questions as they may be asked.

The hearing proceeded as outlined above. Following the hearing and closure of testimony, Chair Verner announced that the board would take this matter under advisement. Mr. Binger stated that once the board issues its oral decision he will prepare the findings of fact and conclusions of law.

## **EXECUTIVE SESSION**

Chair Verner announced at 2:25 p.m. that the board would adjourn to Executive Session for about ten minutes to deliberate and then advise the parties and the public of the next steps. At 2:45 p.m. Chair Verner announced that the Executive Session would be extended in anticipation of coming to a decision.

## **MEETING RECONVENED**

The meeting reconvened at 2:55 p.m. Councilmember Stark moved to approve the appeal before the board and grant a waiver to the Melters and refund the penalty that they paid and that a written decision with rationale and reasoning will be provided by the next board meeting; motion seconded by Councilmember Denenny.

***Motion: To approve the appeal before the board and grant a waiver to the Melters and refund the penalty that they paid and that a written decision with rationale and reasoning will be provided by the next board meeting.***

***Motion/Second: Stark/Denenny***

***Approved: Unanimously***

Mr. Binger will provide the written findings of fact and conclusions of law to the board members prior to the next meeting for their review and they will be ready for signature at the next regular meeting scheduled on February 22, 2007.

## **NEXT BOARD OF HEALTH MEETING**

The next Board of Health meeting is scheduled at 12:30 p.m. on February 22, 2006.

**ADJOURNMENT**

There being no further business before the Board the meeting was adjourned at 2:50 p.m.

APPROVED: May B. Vener  
Board of Health Chair

Date: Feb. 22, 2007

Marcia K. Olson  
Recording Secretary