

Carolyn Edmonds, *Board of Health Chair*

BOH Members:

Richard Conlin
Dow Constantine
George W. Counts
Jan Drago
Carolyn Edmonds
Ava Frisinger
Larry Gossett
David Hutchinson
David Irons
Kathy Lambert
Frank T. Manning
Bud Nicola
Margaret Pageler
Alonzo Plough

BOH Staff:

Maggie Moran

KING COUNTY BOARD OF HEALTH MEETING PROCEEDINGS

**December 7, 2001
9:30 AM to 12:00 PM
King County Council Chambers**

Roll call

- Ava Frisinger
- Larry Gossett
- David Hutchinson
- David Irons
- Greg Nickels
- Margaret Pageler
- Julia Patterson
- Dwight Pelz
- Kent Pullen
- Alvin Thompson
- Karen VanDusen

Call to order

Chair Nickels called the meeting to order. He noted that the meeting had been called as a special meeting to specifically deal with fee issues. He stated that those fees were necessary to bring the current Health Department budget and revenues into line.

Announcement of alternates

Chair Nickels noted that no alternates had been identified.

Chair's Report

Chair Nickels indicated that he had a brief Chair's Report. He stated that that meeting would be his last meeting as a member of the Board of Health and as Chair of the Board of Health. He stated that it had been his honor to chair the Board for the last five years. He added that the Board had been very active and had done some extraordinary work in a number of areas. Chair Nickels stated that he looked forward to that work continuing over the years and looked forward to working with the Board to protect and preserve the public's health in his new capacity as Mayor of Seattle.

Chair Nickels asked that staff follow up on an issue for him related to the alcohol impact areas. He indicated that the Board had received a report the previous month on this matter.

He asked that staff come back to the Board with a report on some alternatives if it was determined that the alcohol impact area approach was not effective. He added that a voluntary approach had worked to a limited degree. He stated that he would like to take a look at the tactics and strategies that have been used successfully with the tobacco industry such as litigation or additional regulations that would make the products, that were of particular concern in our high alcohol impact areas, less available. He added that either making those products available only through state liquor board control stores or in some other fashion. Chair Nickels stated that he thought it was important that the industry know that they were very serious about this issue so that perhaps the voluntary methods might be more effective.

Chair Nickels acknowledged Board Member Pullen.

Board Member Pullen stated that it had been his pleasure to serve with Council Member Greg Nickels. Board Member Pullen stated that Chair Nickels had worked very, very hard as chair of the Board of Health. He stated that of particular note, Chair Nickels had chaired the Board when the Board dealt with one of the more interesting issues, the question of mercury toxicity, particularly mercury coming from amalgam fillings in the teeth. Board Member Pullen stated that the Board had voted to hold a special panel discussion on that issue in the coming year and he thought they ought to invite Chair Nickels to come back as an honorary member of the Board so that he could sit in and see the fireworks.

Chair Nickels responded that he would like that. He thanked Board Member Pullen for his remarks. Chair Nickels acknowledged Board Member Pelz.

Board Member Pelz thanked Chair Nickels for his years of service. Board Member Pelz said that as elected officials they were assigned tasks and that they carried out those tasks with varying degrees of enthusiasm. He added that he thought there could be no question that Chair Nickels had taken the role of Board Chair very seriously and had brought a lot of energy to the position. He thanked Chair Nickels for his commitment to the Board and congratulated him on having done a fine job.

Chair Nickels stated his appreciation for Board Member Pelz's comments.

General Public Comments

Chair Nickels indicated that two individuals had signed up for general public comment, Mr. Richard Ludwig and Mr. Ted Cowan. Chair Nickels instructed Mr. Ludwig to move to the podium, introduce himself and take three minutes to address the Board.

Richard Ludwig:

"Thank you. I have some letters to pass out here, first, if I could get that done. This is from a member of our Small Well Owners Association and he's unable to come today because he's at a doctor's appointment. So I would like to have those passed out, if you would please. This is a memorial day for many of us. I remember this day, sixty years ago. I was at a farm in a little place in Michigan. A year later, I was in the Marine Corps. This is a very special day for us who remember Pearl Harbor. Our ship, I served as a Marine aboard ship was the ship that brought the first prisoner of war of the Second World War, back to the United States, a Japanese Lieutenant captured at Pearl Harbor. So, it is a day I never forget. Two days I never forget: Hiroshima and Pearl Harbor cause Hiroshima saved me and thousand of other veterans that are alive today, we can thank Harry Truman. The thing I come to talk about today as a member of this Small Well Owners Association and as president of

the organization, it's, are not only opposed to the proposed fees that were addressed at the last meeting, but come to ask the Health Board establish a committee to represent the rural residents of King County to not only consider the new fee but also to conduct a full review of Title 13 as promised to us in 1999. It was recognized at that time that certain provisions merited a review and possible modification. Since we were never invited to participate we can only assume that the meeting did not take place. On November 16th of this year, the Health Board decided that the \$20 dump fee needed further examination and a special meeting of interested parties would be held prior to the meeting, this meeting today. I signed up for that meeting but was never advised as to where and when it would be held. I did find out later by contacting a pumper that a meeting did occur on the 21st of November at the Eastgate Health Department facility. Once more homeowners have been ignored. Since the 16th, our organization has reviewed the entire schedule of fees proposed and are appalled at the doubling of fees since April 1999 for new construction which directly affect homeowners while at the same time leaving installer fees, competency and maintainer fees unchanged. Again, they chose to hit those who are unable to attend these meetings. What actual services have been provided to the homeowner since the summer of 1999? Where is the so-called educational materials? We have seen none. And look at these new and increased fees as a means by which the County officials can free up property taxes for other purposes. It is time that those being impacted be heard and their circumstances be fully considered before enacting fees which may not be needed while being acceptable to rural residents. A substantial number of us are living on fixed incomes where \$10 and \$20 does mean something. It is significant. Thank you for your attention and, hopefully, your consideration at your next meeting."

Chair Nickels thanked Mr. Ludwig. Chair Nickels acknowledged Board Member Pullen.

Board Member Pullen indicated that he was disturbed to hear that the Title 13 review had been promised in 1999 but never occurred. He wanted to know why that review never happened.

Chair Nickels acknowledged Dr. Ngozi Oleru, Chief of Environmental Health Division.

Dr. Oleru responded that they would be conducting that review as part of their work plan for 2002. She stated that as part of that review they would be looking at the regulations and convening the industry and the public during 2002.

Board Member Pullen asked Dr. Oleru if they would specifically notify the Association.

Dr. Oleru responded that she would assure that the Association was notified.

Board Member Pullen inquired about Mr. Ludwig's reference to a meeting held on November 21st where homeowners were ignored.

Dr. Oleru responded that a meeting had been held on November 27th. She stated that staff had convened two meetings since the last Board meeting; one meeting was held on November 20th and one was on November 27th. She stated that they had sent out invitations to the people who had signed up and had advertised the meetings on the web site and by press release. She added that the meeting had been announced on channel 7. Dr. Oleru indicated that there were homeowners and industry people at both meetings.

Board Member Pullen requested that the Association receive a special invitation to any future meetings.

Dr. Oleru indicated that there would be future meetings as they were not finished with the initial round of consultations.

Board Member Pullen commented that he had been looking at a letter from a Mr. Jim Stormo that had been distributed to the Board. Board Member Pullen stated that there were some really unusual allegations in that letter. He stated that the letter alleged that one had to have 20 acres to get a well and that one had to mark up their title to reflect how many times they had pumped their septic tanks. He asked if the Department was in fact proposing such requirements.

Dr. Oleru responded that she was not aware of any such proposals.

Board Member Pullen asked that staff contact Mr. Stormo to inquire about the source of his remarks as noted in his letter.

Mr. Ludwig stated that he believed those proposals were in the revised Title 13 and were the items that they had objected to.

Board Member Pullen asked if the proposal he was referring to had been floated around the previous month.

Mr. Ludwig responded in the negative and added that those issues went back to the summer of '99.

Board Member Pullen asked if there had been a proposal in the summer of '99.

Mr. Ludwig responded that that was correct. He added that his Association examined the proposed title at that time and that there had been at least 20 items they had objected to. He added that in the course of conducting the hearing none of their ideas had been accepted or considered.

Board Member Pullen stated that he found that to be alarming. He stated that he hoped they could look at the issues in more depth at the next review.

Chairman Nickels acknowledged Board Member Van Dusen.

Board Member Van Dusen thanked Mr. Ludwig for his reminder about the significance of that day and for his service to the country. She added that she knew there were a number of people like him, who had made a great sacrifice.

Board Member Van Dusen indicated that she felt the Board needed to be aware that the State Department of Health was also undertaking a significant review of the wastewater code. She stated that whatever review was done locally might want to be done in concert with the State given that many of the requirements that might be viewed as objectionable actually originated with the state code.

Chair Nickels invited Mr. Cowan to address the Board.

Ted Cowan:

"Thank you, Mr. Chairman, I'm, my name is Ted Cowan, I'm from Issaquah, Washington. Member also of the small well home, small well homeowners Association. And a overseas veteran, so today is a certainly a special day. I would like to, before I get into this, I'd like to pass out, or have passed out two documents that I think are important. One of them is a memo from Dr. Plough that has some comments on them. I have it folded open to that particular page and another one, which is merely a copy of the RCW, and, Revised Code of Washington, I'm sure you all agreed to abide by it when you were sworn into office, abide by the laws of the state of Washington, and when you get it, you'll notice at the very bottom of this page its, something is highlighted and it says that, "establish fee schedule that _____ license permits , dah, dah, dah, dah, dah, State Board of Health, provided that such fees for services shall not exceed the actual cost of providing the service." In other words, these are not, fees are not supposed to be revenue generating items, they're supposed to cover the cost of the fee, the cost of the service. Now, the last time, that, well, on, on the 11-19, of '99, you increased fees for onsite septic services, single family, new pressurized systems, you went from \$220 to \$420. Now, that was after a, an initiative passed. Now on single family, new gravity you have \$290 now, on the last page of Title 13 and it went from \$140. And for single family repair modifications it went from \$100 to \$200. From non-single family, you went from \$220 to \$570. Now, these are not increased costs of the service. It's a tax. But you call it a fee and the Health Department seems to be proud of the fact that they're not using tax payers money, they're fee driven. Well, I don't care how, what you call it, but a fee that doesn't represent the, a cost of the service, that's above that, is tax. That's wrong.

Now the second item that I had passed out was a copy of a memo that was written by Dr. Plough concerning the special majority vote and one of the things that we wanted to discuss had we had another meeting, would have been the voting is supposed to be three to five not five of the eight. And we wanted that brought up, but didn't get a chance to. Now that was on, I'm sure if you refer to your, the minutes of the meeting, that Dr. Plough refers to, you'll find that this special majority vote was in error. We hope to correct that. Anyway, I guess that's all I have to say, but I would hope that you could correct that."

Chair Nickels acknowledged Board Member Pullen.

Board Member Pullen indicated that he had a couple of questions. He stated that he found the first point Mr. Cowan made, regarding the fees charged exceeding the actual cost of providing the services, to be of interest. He indicated that that would be a violation of state law. He stated that if that was the case he wanted someone to give the Board an accounting one way or the other. He inquired as to Mr. Cowan's statement about the special majority rule and if that statement was in fact referenced in Dr. Plough's communication.

Board Member Pullen asked legal counsel about the special majority rule.

Ms. Jane McKenzie identified herself for the record. She stated that she was from the King County Prosecutor's Office. She stated that she was looking for the exact language however she said that the rule required a super majority of the County and Suburban Cities; it would require 5 of those members to vote for it; if it had to be a super majority of the City of Seattle, it would require two of those members voting for it.

Board Member Pullen indicated that he wanted to know what the rule stipulated. He asked if in fact there were five members of the County and Suburban City delegations? He asked how many members represented the County and Suburban Cities.

Ms. Moran, Board staff, responded that there were six County Council members on the Board of Health and three Seattle City Council members.

Board Member Pullen asked where the eight came from as stated in the memo that was circulated to Board members. He stated that the memo that was circulated referenced that it took five of eight. He wanted to know how the eight was calculated.

Ms. Moran responded that she had only just received a copy of the referenced memo and could not respond without having read it.

Board Member Pullen responded that perhaps the Board could have a report on the matter later in the session about the contents of the memo and the specifics of the rule.

Ms. Moran responded that she could read the rule to the Board but could not address the specifics of the memo at that time.

Board Member Pullen asked the Chair if staff could have permission to read the rule.

Chair Nickels responded in the affirmative.

Ms. Moran indicated that she would be reading an excerpt from the Board's operating rules related to voting. "Action on rules and regulations: an affirmative vote of a majority of the members of the Board shall be required to adopt, amend or repeal rules and regulations that, pursuant to Metropolitan King County Council Ordinance 12098, in addition, a) any repeal or amendment of an existing rule or regulation which was effective prior to January 1, 1996, which applies outside of the limits of the City of Seattle, shall be adopted only by an affirmative vote of a majority of the Board as well as an affirmative vote collectively of a majority of the King County Council members and the Suburban City members, b) any amendment or repeal of an existing rule or regulation adopted by the Board of Health of the City of Seattle and effective prior to January 1, 1996 shall be adopted only by an affirmative vote of the majority of the Board as well as an affirmative vote of the majority of the members appointed by the City of Seattle. All other Board actions requiring a vote an affirmative vote of the majority of the number of Board members necessary to constitute a quorum shall be required for all actions of the Board that require a vote, other than actions adopting, amending or repealing rules and regulations."

Chair Nickels acknowledged Board Member Irons.

Board Member Irons stated that it might prove to be helpful if staff described the membership of the King County Board of Health.

Chairman Nickels indicated that staff should proceed with a description of the current Board membership. He stated that while staff was preparing to do so, he wanted to welcome Board Member Julia Patterson. He stated that that was her first meeting as a member of the Board and that they were looking forward to her participation.

Board Member Patterson thanked Chair Nickels.

Ms. Moran announced that the current Board membership consisted of six County Council members, three Seattle City Council members, two Suburban City members who were appointed by the County Executive, and three health professional members, only two of whom had voting privileges.

Chair Nickels stated that there was one additional person who wanted to address the Board. He invited Ms. Betty Davidson to approach the podium, introduce herself and take three minutes to address the Board.

Betty Davidson:

"Good morning. I'm Betty Davidson. And I'm here with several things on my mind, so I'll try to talk fast. One is about mercury. I understand you're going to be having a hearing and I have had severe mercury poisoning myself and now so sensitive that I can't be in my dentist's office if he has done any mercury work that day. It happened once, I took a friend to have some amalgams removed, although I didn't stay in the office I was there, I was sick in bed for three days, I wanted to die. If I'd had a gun, I'd have shot myself because I got all the old symptoms back again and I've survived only because I've had a lot of friends that brought me food and water. I had expert medical and dental help. I had a fairly good insurance policy but it was limited and I had an IRA which I've totally depleted. And I still have problems and that was 10 years ago. I would like to recommend, I don't know how you constitute your panels, I would like to recommend that you include John Moore [SP] on your panel. He got sick with mercury before I did, I think '88, or '89. I got sick, collapsed in 1990. He has since then researched, kept in touch with the mercury research, the experts, he knows more than anybody that I know about what's going on in terms of research and political action which is going on now around the country in terms of informing people about what their mercury amalgams might do to them or their children. And the medical costs are greatly increased by the presence of amalgams in our mouth. And the medical profession is pretty much brainwashed by the dentist who say well, it doesn't hurt you and some of the teeth and what's in the mouth is considered secret from the rest of the body and they really are here, part of the body. The other thing is there is mercury in the vaccines that are being given now for flu and pneumonia, and I met some people in my local grocery store, recently, a couple weeks ago who were giving these shots, and I asked what was in them as a preservative and they said thimerosal and I said "Well, that's mercury, I can't take it." and she said, "Oh, it's not mercury, it's a mercury derivative, it's not mercury". I've had reactions to thimerosal and I can't take it. And these people apparently contract with the City or the County to give these vaccinations in public places. These were in the local grocery store and people are not informed that they're getting mercury although even if they are told it's thimerosal lots of people don't know that is a mercury compound. The other thing on my mind has to do with children's mental health. I'm a clinical social worker, I've got a lot of psychiatric experience, medical experience.

Well, anyway, can I briefly say that a lot of the kids in school shootings and other violent shootings are done by people who are taking Prozac or some similar drug. With kids, sometimes it's Ritalin or they've had Ritalin and they go on to Prozac or Livoxic [SP] something like that. Including Harris who shot, was one of the shooters at Columbine. The parents of one of those kids who was shot is now suing the manufacturer of the drugs. I have a brother who lives in Littleton, so I know about that. I have here a copy, purloined of course, although I don't think it's legal, a copy of a chapter in a book called "Reclaiming our Children". The title is "Are Psychiatric Drugs Making our Children Psychotic and Violent?" and there are many references

here to those incidents plus research which indicates that these drugs can cause even psychotic reactions and I'm wondering if someone here would be interested in looking at this. I think it's a serious issue. We're all concerned about violence in schools as well as public places. I was wondering if someone would like it? Thank you. "

Chair Nickels thanked Ms. Davidson.

Environmental Health Fee Package

Chair Nickels announced that the next item and only action item on the agenda was a briefing on the Environmental Health Fee packages, specifically food service establishment fees and water recreation facility fees. He added that the Board would also be provided with a brief summary of recent meetings with onsite industry representatives, but that there would be no proposed action on the on-sight program. He invited Ms. Kathy Uhlorn, the Department's Chief Financial Officer, to address the Board.

Ms. Uhlorn introduced herself for the record. She stated that she was from Public Health, Finance Administrative Division. She stated that on November 19th, the Metro King County Council passed its 2002 budget. She stated that the 2002 adopted public health budget was approximately \$231 million, the public health fund budget was approximately \$184 million and that the adopted budget was essentially the same budget submitted by the Executive to the Council with one addition. Ms. Uhlorn stated that the Council increased its current expense level of funding to the community clinics so that the adopted level was 3/4ths of the 2001 level. She added that that was a one time only increase of \$368,000, or approximately a 25% increase.

Ms. Uhlorn indicated that the Environmental Health Division budget, as well as all other program budgets in the department were difficult to balance this year due to increased personnel operating costs with revenues not able to keep pace with the inflationary increases. She stated that in order to maintain current levels of service in the Environmental Health Food Program and the Water Recreation Facilities Program, fee increases were proposed by the Department during its annual budget preparation. She noted that those fee increases were supported in the Executive's review of programs. She stated that the adopted budget included those fee increases that the Board would be asked to adopt. Ms. Uhlorn stated that both of the fee requests were developed for a three-year period and were consistent with the Department fee proposal guidelines. She stated that if the fees collected were in excess of required revenue for the first or second year of the three-year time frame, they would be deferred to cover inflationary increases in the following years. She added that those receipts would be kept within that program. Ms. Uhlorn stated that if fee increases were not approved in those programs, service levels would decrease. She stated that restaurant inspections would be decreased in the food program in either the education visit or the regulatory inspection visits and pool inspections would also decrease in the water recreation facilities. Ms. Uhlorn stated that Dr. Ngozi Oleru would review the fee proposals in those programs in greater detail and answer any questions the Board might have. Ms. Uhlorn stated that fee changes in the on site septic system program would not be discussed that day. She stated that Dr. Oleru would bring the Board up to date on activities her staff had accomplished on that issue since the last Board meeting and would also distribute minutes of community meetings for the Board's review. Ms. Uhlorn concluded by stating that the Department would review with the Board a proposed amendment to the on-sight septic fee regulation at a future Board meeting.

Chair Nickels acknowledged Board Member Gossett.

Board Member Gossett indicated that he wanted Ms. Uhlorn to respond to earlier comments made during the public comment period about proposed fee increases not being needed because they did not cover the actual costs of the program.

Ms. Uhlorn responded that the proposed fee request for that three-year time period did not cover the costs for the 2002 budget. She stated that it would probably balance, or help to balance, the 2004 budget. She added that the 2005 budget would not have sufficient fees generated that year but deferred fees from the first and second year would help cover inflationary costs of the third year. She stated that the Department reviewed fees on a three year time frame; so the first year they gained a little bit, the second year they broke even and the third year they had to use the gains from the first year to help cover the inflationary costs of the third year. She added that in response to Board Member Pullens' request for an accounting of fees assessed, staff would bring that information forward at the Board's next meeting.

Chair Nickels invited Dr. Oleru to continue the staff briefing.

Dr. Oleru stated her name for the record. She stated that she was Ngozi Oleru, Chief of Environmental Health for Public Health. She introduced her colleague Phil Holmes, senior administrative assistant. Dr. Oleru stated that the purpose of the fee increases were to maintain existing levels of service which included the annual provision of two routine inspections and one education visit for restaurants, and maintenance of the new food program website. She added that the costs of the food program would increase by \$190,000 in the 2002 budget. She stated that the major sources of that increase were personnel, supplies, motor pool, parking for inspectors, space rent and leases, and technology support for the web site. She stated that there were no increases in the number of program full time equivalent staff. Dr. Oleru stated that the referenced chart summarized the fee changes. She stated that the fee increases ranged from \$4 to \$124 or approximately 16%. She added that comparable fees for neighboring jurisdictions for the year 2001 were highlighted in an accompanying chart.

Dr. Oleru referenced the overhead slide which described fees for different categories of service. She stated that the chart depicted current fees for 2001, proposed fee for 2002, the amount of the increase as a percentage and then a comparison number for Pierce and Snohomish Counties. She referenced a chart on the overhead monitor and noted that the numbers represented the costs per day, and the proposed fee for 2002.

Unidentified Speaker: What's the range per day?

Dr. Oleru responded that it ranged from two cents per day to about 34 cents per day.

Chair Nickels acknowledged Board Member Pullen.

Board Member Pullen stated that he was concerned about how those costs compared to the actual cost of providing such services.

Dr. Oleru directed him to the next chart. .

Board Member Pullen stated that the handout they had received from Mr. Cowan had stated that under state law, RCW 70.05.060, the fees for such services should not exceed the actual costs. He said that he would be very interested to see the cost comparison.

Dr. Oleru indicated that that information was contained in the next chart. She stated that services delivered under the program were broken out by cost per service and the total amount for each. She added that they did two routine inspections for a total of 18,459 and a cost of \$139.48 per inspection; the number of return inspections was 1,039 with each inspection costing \$101.79.

Board Member Pullen stated that the chart did not tell him what the cost per service was compared with the cost of the fee for that service. He stated that he was looking for a chart that said "This is the fee we charge this establishment and this is what the actual service costs to provide that particular service to that establishment." Board Member Pullen stated that he was looking for a table that showed the cost for the service and the actual fee so he could see how it compared under RCW 70.05.060.

Dr. Oleru asked if Board Member Pullen wanted to see the information side-by side.

Board Member Pullen responded in the affirmative.

Ms. Uhlorn referred to a copy of the 2002 budget. She stated that the revenue budget did not balance to the cost of the program.

Board Member Pullen indicated that that information helped. He indicated that what was shown was that the overall budget balanced, but that what Mr. Cowan had pointed out was that each individual fee should balance. He stated that in other words, no particular payer was paying more than what the cost of that particular service was. He added that that was what was missing; the overall bottom line balanced but they still didn't know if each individual fee balanced so that some people might be paying more and some people might be paying less.

Mr. Holmes directed the Board's attention to the chart that Ms. Uhlorn had provided. He noted that at the bottom of that chart the Board should see that there was County tax support of \$713,000 for this program. He also stated that there was additional state tax support of \$250,000 and some general fund from the City of Seattle tax support. He stated that for the entire program, all services provided were subsidized by tax support. He added that total fees within the program did not exceed the costs. He said that he did not have available the numbers for each specific category, but that the overall program was subsidized to the tune of \$1,000,000.

Chair Nickels acknowledged Board Member Van Dusen.

Board Member Van Dusen stated that she felt it was important to note that there was some non-fee money in this program.

Chair Nickels acknowledged Board Member Irons.

Board Member Irons commented that the point he believed Board Member Pullen was attempting to make was that the total number of routine inspections were listed as 18, 449 last year for a total cost of \$2,574, 661. He asked about the number of inspectors doing the routine inspections. He asked if staff took the number of staff and their total annual labor costs, and that was included in the \$2.5 million or did they take the actual time it took to complete 18,449 inspections and calculated the amount by number of billable hours, such as attorney's do.

Mr. Holmes responded that their approach to assembling the budget was to look at how many restaurants there were and then they applied the number of inspections per restaurants; routine inspections and one field visit, then calculated how much time was needed for each inspection.

Board Member Irons stated that what he understood Mr. Holmes to say was that if a routine inspection were to take one hour, and if that was the average, an hours worth of labor would be multiplied by the total number of inspections and that amount would be the total labor cost of 18, 459.

Mr. Holmes responded that Board Member Irons was correct in his understanding.

Board Member Irons asked that if they were to use his example of billable hours such as attorneys did, that if the individuals doing those routine inspections were operating at 60% of actual inspections, 60% of their labor would be captured under routine inspections and 40% would not be captured. He asked if that statement was correct.

Mr. Holmes responded that he was correct.

Ms. Uhlorn stated that she had a chart that depicted the number of FTE's in the program. She said the simple answer as to how many people were doing inspections was approximately 29.

Board Member Irons thanked staff. He stated that he thought that was one of the issues that Board Member Pullen was driving at.

Chair Nickels acknowledged Board Member Thompson.

Board Member Thompson asked if there was a correlation between the number of seats and the cost of inspection and if so, was it equitable considering the difference in potential gross for a small restaurant with 20 seats to pay the same fee as one with 75 seats.

Mr. Holmes responded that based on their experience the seating capacity of a restaurant did correlate most closely with the cost of service as opposed to gross income or other measures that might be used.

Board Member Thompson asked Mr. Holmes to expand on his comments.

Mr. Holmes stated that some counties might use gross income for determining their fee scale. He stated that King County, and most of the counties in Washington state used something along the lines of seating capacity that determined how long the inspection in that type of establishment would take and that it also determined the difference in cost between a small establishment and a large establishment.

Board Member Thompson stated that he could see some equity in using gross as opposed to seating capacity, but wondered whether there was a correlation between seating capacity and the cost of doing an inspection.

Mr. Holmes stated that there was a correlation.

Dr. Oleru stated that in identifying the cost of service they looked at the amount of time that it would take to do an inspection. She stated that the size of the establishment did make a difference as to how much time an inspector would spend on the inspection.

Board Member Thompson stated that he was concerned that the small restaurants would be charged the same fee as the larger restaurants.

Mr. Holmes responded that the reason they had categories based on seating capacity; 1 to 75 was the first category and 76 to 150 the second category; was that they did not find a noticeable cost difference by making the seating categories smaller. He stated that they tried to organize the fees based on categories where there did seem to be a change in cost once they went above a certain size. He stated that was why they did not have a smaller grouping such as a 1 to 20 seat category or a 20 to 50 seat category. He added that the cost seemed to be the same whether it was a 5-seat restaurant or a 55-seat restaurant, but there did seem to be a cost difference as they moved into larger 150-seat establishments.

Chair Nickels acknowledged Board member Van Dusen.

Board Member Van Dusen stated that she thought the real issue was not how many seats that were out front, but that in restaurants of a certain size, there were certain equipment layouts, and certain types of foods that one would see in the kitchen. She added that the inspections took more time in larger restaurants because one had a lot more capacity, a lot more equipment, a lot more holding areas to check, a lot more refrigeration, a lot of different food types and that's where it got complicated and took more time. She stated that she could understand where a 75-seat establishment or less, the kitchen design probably didn't change that much.

Chair Nickels acknowledge Board Member Irons.

Board Member Irons said that he had a question related to the chart that showed the 2000 adopted and then the 2002 proposed. He asked if the number reflected was the difference between the two numbers. He noted that the numbers were slightly off and speculated that that might be a function of the Excel spreadsheet and the formulas.

Mr. Holmes responded that the number shown on the chart was in an account that represented only the salaried account. He added that it was a change between those two lines but that it was only one account and not the entire program.

Board Member Irons stated that the chart was confusing and that it appeared that the change was from the dollar change and was two cumulative amounts. He noted that that was not an accurate description.

Mr. Holmes stated that it was accurate.

Board Member Irons responded that if he took a calculator and added the numbers that were not the right numbers. He added that while the numbers were small it didn't show a big difference. He noted as an example the difference between \$1, 851,867 and the \$1, 864,705; the difference was \$12, 838 not \$13,447, at least by his calculations.

Board Member Irons stated that it was a very small difference but it still wasn't right.

Mr. Holmes suggested that what he perhaps couldn't see reflected on the chart was the 2002 adopted. He stated that Board Member Irons was correct, that it was not the two columns displayed that represented the difference.

Board Member Irons responded that that explanation made more sense. He thanked Mr. Holmes.

Chair Nickels asked if there were any additional questions. There being none, he invited Dr. Oleru to continue with the briefing.

Unidentified voice: asked if the hotels that served breakfast and late night snacks were captured in the fee schedules.

Mr. Holmes stated that those organizations were in the food business and were in the restaurant category if they provide those services as described.

Dr. Oleru stated that the purpose of the water recreation fee increases was also to maintain existing levels of service, including two routine inspections per year. She stated that in addition, they were requesting to add a category of miscellaneous fees, similar to the food code for after-hour inspection requests, re-inspections and re-instatement of permit suspensions, since these activities entailed unbudgeted costs. She stated that generally, water recreation facility operating permit fees were reviewed on a three-year cycle. These fees were last adjusted in 1994. In lieu of proposing fee increases in 1997, she stated that service levels were reduced from three to two routine inspections per year. She stated that for environmental safety reasons further reductions in service would not be warranted, therefore, they were proposing the increase.

Dr. Oleru stated that the proposed fee increases were as follows: to increase the water recreation facility operating permits from \$300 to \$350 and \$150 to \$175 for additional pools and spas at the same site. She stated that the fees represented approximately 16% and would assure that the program would be fully supported. She directed the Board's attention to a chart that depicted the current fees and the 2002 proposed fees. She also noted the comparable fees for the neighboring counties of Pierce and Snohomish. She directed the Board's attention to the next chart in their packet that depicted the following: the service and the cost per service for those programs; the numbers of routine inspections, return inspections, number of complaints, investigations, and follow-up visits that were done; the number of illness and injury investigations; and consultation and education visits. Dr. Oleru stated that they had gone ahead and broken that information down by cost per day, in order to put it in context with the proposed fee increase. She stated that it ranged from 7 cents per day to 14 cents per day.

Chair Nickels thanked Dr. Oleru and asked if there were any questions.

Chair Nickels acknowledged Board Member Van Dusen.

Board Member Van Dusen asked if the program was fully fee supported.

Dr. Oleru responded that the program was totally fee supported.

There being no additional questions, Chair Nickels indicated that they would now accept public comments on the food establishment fees and the water recreation facility fees.

Public Hearing Period – Fees

Chair Nickels inquired of staff as to whether any member of the public had signed up to testify. Staff indicated that no member of the public had signed up to testify. Chair Nickels then indicated that the public comment period was therefore closed.

He opened the floor to Board members who wished to discuss the proposed fee increases. Chair Nickels called for a motion on the rule regarding food service establishment fees and water recreation fees. Chair Nickels acknowledged Board Member Pageler.

Board Member Pageler stated that she wished to move the food service establishment fees and speak to that issue.

Chair Nickels invited Board Member Pageler to speak to her motion.

Board Member Pageler stated that they had all become very sensitized to the issues of bio-terrorism. She stated that she thought they needed to remember that it was not just the postal system that was vulnerable, but that one of the few instances of bio-terrorism that they had known about was in fact a food related act of terrorism in Oregon; where food, in a restaurant salad bar, had been deliberately contaminated in order to skew the political process. She stated that their continued vigilance on food safety was more important than ever; that the public depended on them for regular inspections and training. She stated that every time one went to a restaurant, hotel or bed and breakfast, and had a meal, the public counted on public health to have insured that that restaurant owner, that food provider was doing the right things to keep the food safe.

Chair Nickels asked if there were any additional comments on the food service establishment fee rule. There were none so Chair Nickels asked Ms. Moran call the roll.

Ms Moran called the roll:

- Board Member Pelz - [absent]
- Board Member Pullen - aye
- Board Member Gossett - aye
- Board Member Irons -aye
- Board Member Conlin - [absent]
- Board Member Licotta - [absent]
- Board Member Pageler -aye
- Board Member Hutchinson: aye
- Board Member Frisinger - aye
- Board Member Patterson -aye
- Board Member Van Dusen - aye
- Board Member Thompson - aye
- Chair Nickels - aye

Ms. Moran announced that there were 10 yes votes and the motion passed. Chair Nickels asked if there was a motion on the water recreation facility fees.

Unidentified Voice: _____ made the motion that the fees be moved.

Chair Nickels stated that a motion had been made to adopt the water recreation facility fees. He called for discussion on the matter.

Ms. Moran commented that there was a question about whether or not a special majority vote was needed given that those fees had last come before the Board in 1994. She asked for time to consult with County Counsel.

Chair Nickels called for a 30-second recess.

Ms. Moran announced that a special majority was not necessary afterall.

Board Member Pullen requested an explanation as to the change in opinion.

Ms. Moran indicated that part of the confusion rested with her own learning curve around the rules related to the special majority. She indicated that was why she had requested the opportunity to consult with Ms. McKenzie. She stated that she had been assured by staff that the fees in question had been amended since 1996 and thus did not warrant a special majority.

Board Member Pullen asked if the key was the timing of the Board's last review.

Ms. Moran responded in the affirmative.

Board Member Pullen asked that even though they were enacted prior to the threshold date originally, they had since been amended.

Ms. Moran responded that yes, staff had assured her that they had since been amended.

Board Member Pullen stated that because they had been amended that the special majority rule no longer applied.

Ms. Moran responded in the affirmative.

Board Member Pullen asked if that same logic applied to City of Seattle issues as well.

Ms. Moran replied yes and asked Ms. McKenzie to respond as well.

Ms. McKenzie stated that Board Member Pullen's question was whether it was an enactment prior to '96. She stated that if there had been an amendment since '96, then that would at the time have been done, presumably by super majority, at that any later amendments would then not be subject to the super majority rule.

Board Member Pullen stated that he appreciated Ms. McKenzie's clarification.

Chair Nickels acknowledged Board Member Van Dusen.

Board Member Van Dusen asked if the rule had anything to do with the state law requiring one county board of health.

Ms. McKenzie stated that it related to the establishment of the Board, and the incorporation of the Health Provisions of the Seattle Municipal Code and the King County Health Provisions and amendments of those by this federated body.

Board Member Van Dusen stated that ultimately they would have just one set of codes.

Ms. Moran responded in the affirmative.

Chair Nickels asked that Ms Moran call the roll.

Ms. Moran called the roll.

- Board Member Pelz - [absent]
- Board Member Pullen -Aye.
- Board Member Gossett -Aye.
- Board Member Irons - Aye.
- Board Member Conlin - [absent]
- Board Member Licotta - [absent]
- Board Member Pageler - Aye.
- Board Member Hutchinson - Aye.
- Board Member Frisinger - Aye.
- Board Member Patterson -Aye.
- Board Member Thompson - Aye.
- Board Member Van Dusen -Aye.
- Chair Nickels - Aye.

Ms. Moran announced that there were ten yes votes.

Chair Nickels announced that the fees had passed.

Chair Nickels clarified that the draft rule would be amended, prior to his signature, that would state the effective date of implementation as 30 days following passage. He stated that with the Board's concurrence, he would make that correction when he signed it.

Update on OSS

Chair Nickels indicated that there would be a brief update on the meetings with the OSS industry, haulers and pumpers, related to a discussion that occurred at the November 16th meeting. He invited Dr. Oleru to begin her briefing.

Dr. Oleru stated that the Department had held several meetings to establish a dialogue with the industry and the public following the previous Board of Health meeting. She indicated that two meetings had been held thus far. She directed the Board's attention to copies of the November 20th and 27th meeting summaries that were included in the Board packets. Dr. Oleru indicated that they had received some excellent feedback and input and that they would continue to work with the industry and the public to come up with an acceptable proposal that they would present to the Board at a future meeting.

Chair Nickels acknowledged Board Member Pullen.

Board Member Pullen asked what the main points of contention were.

Dr. Oleru responded that the main points of contention that she had heard thus far, especially from the hauling industry, was that they did not want to be responsible for collecting the money. She stated that there had been general agreement that the operation and maintenance program should go forward however there remained the need to discuss how and under what configuration. She noted that there were additional questions about whether or not the program should be educational, done solely by the Health Department or done in partnership with the industry. She stated that those types of questions would need to be addressed along with how to collect the fee and who to collect fees from. She stated that there had been suggestions about the fees being added to the installer fee or collecting it through real estate transaction. Dr. Oleru indicated that as yet there had been no decision made on how to proceed.

Board Member Pullen commented that it seemed that some of the suggestions might require a change in state law.

Dr. Oleru stated that that was what they were hearing. She indicated that the discussions would be ongoing.

Board Member Pullen asked that staff keep the Board posted and that they keep citizen groups informed and involved as well.

Dr. Oleru responded that they would send special invitations to the Small Well Owners.

Chair Nickels stated that the public hearing was tentatively scheduled for January. He stated that the Board would be briefed on proposed amendments to the fee regulation and that they would also hear from staff about any additional discussions that took place with industry representatives. Chair Nickels asked if there was any other business before the Board. Chair Nickels acknowledged Board Member Pageler.

Board Member Pageler stated that she had had the privilege of meeting with the nominating committee to try to find a way to replace Greg Nickels as chair of this Board. She stated that the first thing the Committee had undertaken was to discuss the criteria for a Board Chair. She said that the committee concluded that it would be impossible to replace Greg Nickels. She said that one of the criteria they discussed was fairness. That they wanted someone who could work with the Democrats, Republicans, county, city, suburban cities, conventional versus alternative medical systems. That the Committee wanted someone who had the ability to listen and have the necessary patience to listen to all points of view and to other Board members. She added that other criteria they had discussed were inclusiveness; the ability to understand what was a very Byzantine system in terms of its financing and its delivery and the ability to put aside one's role as an elected official; to not create a czardom; to be flexible and to work within the complexities of the system. Board Member Pageler stated that these were the qualities that Greg Nickels had brought to the role of Board Chair for many years. Board Member Pageler stated that it was important to have the ability to continue to focus on what was really in the public's interest and would produce the best health outcomes. She stated that political courage was necessary. She added that many of them had watched Chair Nickels take a leadership role on tobacco advertising and HIV reporting. She stated that those were very, very controversial because they were life and death issues for so many people. She stated that it was also important for the Chair to have the ability to use crises as opportunities to find solutions and not just to grandstand. She stated that they had seen this type of leadership with the old stadium food safety inspections. She said that in thinking through the qualifications for Board Chair, and in particular Chair Nickel's leadership as Board Chair she was in the enviable position that all these qualities would now be put to use in service the City of Seattle. She stated that the Board of Health's loss was the City of Seattle's gain. She announced that on behalf of the entire Board she wanted to present Chair Nickels with a gift. She read the inscription on the gift: "Greg Nickels, Chair, King County Board of Health, March 1996 to December 2001, move with the cheese and enjoy it." Board Member Pageler noted the significance of the big cheese award by presenting the accompanying book "Who moved my Cheese?"

Chair Nickels thanked the Board members. He stated that he had enjoyed his role very much. He stated that he would look back on his time with the Board of Health with great affection.

With that, Chair Nickels adjourned the meeting.

KING COUNTY BOARD OF HEALTH

s/Greg Nickels/s