

**Maricopa County  
Board of Health Meeting Minutes  
Admin Building  
301 W. Jefferson Street, 10<sup>th</sup> Floor  
Board of Supervisors Conference Room  
Phoenix, Arizona 85003  
3:00 p.m.  
February 26, 2007**

Ms. Adamic called the meeting to order at 3:00 p.m.

**ROLL CALL:**

**Members Present:**

Audrey Adamic  
Don Cassano  
Susanne Cook, R.N., Ph.D.  
James Giangobbe, M.D.  
Zuhdi Jasser, M.D.\*  
Supervisor Andrew Kunasek  
Brian McNeil  
Brian Spicker\*  
Jim Vandeventer  
(\*arrived during the meeting)

**Member Excused:**

Pam Wight

**Member Absent:**

Maclovia Zepeda

Ex-Officio: Bob England, M.D., M.P.H., Director

**ACTION ITEMS:**

**Approval of the January 22, 2007 Board of Health Meeting Minutes:**

*Mr. Cassano made the motion to approve the January 22, 2007 Board of Health meeting minutes; Dr. Giangobbe seconded the motion. The motion passed unanimously by seven votes.*

**Fee Waiver Request:**

Ms. Minichiello, Program Manager, Environmental Services, explained there are three waiver requests by the "Survivors on Our Own" organization. The first request is the plan review fee or base fee; the second request is for an expedited fee because construction was started without the appropriate beforehand approval; and the third request is a catering fee. The food catering permit is for catering off premises. Environmental Services recommends approval for the plan review fee portion of the request only.

*Mr. Spicker made the motion to waive the plan review fee and the expedited plan review fee for the "Survivors on Our Own" organization; Dr. Giangobbe seconded the motion. The motion passed unanimously by eight votes.*

**Maricopa County Environmental Health Code Revisions:**

Mr. Cassano, Vice President-Finance Committee, has excused himself from this agenda item and is temporarily seated in the audience section of the room.

Mr. Power, Director, Environmental Services, said he is here today on behalf of the Environmental Services Department for a Public Hearing meeting to discuss revisions to the Health Code. Mr. Kevin Chadwick, Division Manager for Water and Waste, Ms. Amy Upton of the Enforcement Program, Mr. David Ludwig of the Environmental Health Program, and Mr. John Kolman who has worked closely on behalf of the chemical toilet industry, are on hand to assist with questions.

The request today is to update the Maricopa County Environmental Health Code with technical changes to the existing language and suggested changes by the County Attorney. Organizations will continue to request fee waivers from the Board of Health. One major change located in Chapter One is a yearly price index factor. The proposed increases will not be effective until January 1, 2009 because of other phase in increases. The other significant change affects the fee charged per chemical toilet. The Department has held industry focus groups, workshops, and solicited industry comments. The requested change is a result of the variance reported by the industry for the number of portable toilet units to Environmental Services. The updated reporting for units resulted in a request to reduce the per unit fee.

Mr. McNeil asked Mr. Power if \$10.00 is the present fee per unit – Mr. Power said yes, but we are requesting at our hearing today that the unit fee be lowered. Mr. McNeil asked why would the smaller business pay more per unit for 25-99 units as the suggested \$10.00 per unit fee – if the basic fee will now be \$5.00 per unit under the proposed change. Mr. McNeil said it appears you are penalizing the smaller business under the proposed breakdown. When you own 100 or more units the breakdown is \$5.50 per unit. Mr. Kolman said there are very few vendors in the 25-99 category and typically they provide service for one or two toilets to capture some of the costs. Mr. McNeil did not understand why the smallest vendor pays the most per unit under the proposed change. Mr. McNeil said the group cost breakdown does not seem to be calculated fairly.

**Call to the Public:**

Mr. Larry Moore representing A Company Portable Restrooms Inc., explained he is part of a large operation here in the Valley. Mr. Moore has met with the County several times continuing to commute from Boise, Idaho to discuss the fee increase. The County has representatives in the field, building inspectors, who typically use our portable restrooms. County portable restroom guidelines are inadequate specifying one portable restroom to thirty individuals. By manufacturing standards portable restrooms are designed to handle one to ten people over a forty hour week. When you raise the ratio you are sacrificing sanitary conditions. The County violates OSHA standards which stipulate one portable toilet for every twenty individuals. This federal law is currently under review and is likely to be changed to reflect the American National Standards Institute criteria of one portable restroom for every ten people.

The original fee increase last July provided a 600% increase at \$3.10 per unit, over a two year period. A \$10.00 unit fee per restroom each year for a portable restroom is outrageous. The new tier proposal equates to a 300% increase.

No one in the industry knew about the first meeting. Once word circulated everyone in the industry was shocked at the increase. If we had a chance to discuss the changes before they went into effect we would have nipped this in bud then but we feel we weren't invited or informed as we should have been. We understand that the reason for the increase is to add another inspector. We asked at the first meeting how many complaints has the County received. No one has answered our question, but I have heard you can count the complaints on one hand. So how can you justify a fee increase to add another inspector when you have very few complaints. The handout I provided you today points out (Exhibit D) that on the original fee increase trash containers, and medical waste containers were included. How do you justify \$10.00 per portable restroom when you compare the cost for other types of containers at \$2100 for a range of one to 25 thousand containers. You ask yourself how can the ranges be so different. Reality tells you this is about adding another inspector. I understand that you are proposing annual increases. Here you have no justification for the fee increase and then an annual increase. Again I would like you to look at waiving this fee and permit request at this time.

Mr. Michael Bartell of Waste Management (WM) addressed the board. Legislature requests the Board review the purpose of the fee as Mr. Larry Moore presented in the packet that he provided to you. Our understanding is the fee is set up to maintain the sanitation inspection and enforcement for chemical toilets. But as presented to you we are at a disadvantage for the capabilities of the toilets, as they are built, are in dispute because the County ratio is one portable toilet to thirty individuals. That's why from the enforcement side – we maintain how clean they are but we provide a fee for service.

We can't tell the consumer how much service they need because the County has already said they need one unit to thirty individuals which is way below what our requirements are to maintain good sanitation. We are at a disadvantage. What is the purpose for the fee or the increase. What are the benefits. We'd like to see the fees match the benefits for our services. If we can't say to the customer here's the standards that we must maintain; tell me what are you inspecting; remember it's the sanitary conditions; well how can we support this fee.

Supervisor Kunasek would like to see the background data from Environmental Services to better understand the background for the fee study and how often these units are inspected.

Mr. Eric Wilson, from United Site Services, is one of the haulers in the valley for the 5,000 unit market. When the builders receive an environmental impact permit an environmental impact charge is part of that permit. I think the money or the pie should be split up a different way, rather than going after the hauler to get more money out of each individual company. I understand we have to do proactive inspections to insure public health. I do think as a citizen we could use some of our other inspectors, possibly, the dust control inspectors, because they are on the same sites. We probably need an inspector for the special events, also. It fails every single time – like the FBR Open – they look at the portable toilet providers – these guys are not doing their job – it's not us, it's the event planners who don't order enough units to cover the attendance at the event. The permit fee is definitely a hit in the pocket and we will pass it down and it eventually goes to the public.

Mr. Power asked to make a couple of clarifications. We are not adding another inspector, we are asking to pay for the inspector. This was a request from OMB that all fee programs are stand alone programs funded from the fees collected to provide the service. Many of these programs were subsidized by the general fund money in the past. When the department first requested supplier input the original number of reported units was 8,330. Once the process began, and the increase went into effect, we had 17,213 portable toilet units reported by the industry.

With regard to industry notification input, industry players received notification for all three meetings in the U.S. mail to the same address. No one attended the first meeting request. Attendance steadily climbed for the second and third meetings. As an industry, all players were very interested in meeting and working out a solution to the \$10.00 per unit fee charge. That is the reason for the request today before the Board of Health - to lower chemical toilet fee charged per unit.

Supervisor Kunasek asked how often do you perform unit inspections during an event such as the FBR. Mr. Power said each unit is normally inspected once during a special event such as the FBR. Inspections on units used for

construction are probably done periodically. One inspector is physically capable of inspecting 10% of the units. How do you know where the construction sites are? Mr. Power explained that other programs from Environmental Services often trigger communication on where these sites are located. When you have a permit through the City do they notify the County that there is a portable unit located there. No they don't. Mr. Power said the ratio defined by the County of one portable unit to thirty individuals was updated in the code in 1980 and is in the process of being revised to the standard. This is a separate process from the hearing today. A one to twenty ratio is the standard Environmental Services was provided. Mr. Kolman has been meeting with the industry as recent as last Thursday. There will be a new presentation to the Board of Health regarding proposed changes for Chapter Two of the Health Code in the near future.

One of the reasons for the tiered approach is to group units in a range so the industry does not have to respond to the County for small variances in the number of units on hand.

Mr. McNeil asked what is the amount of money the County receives from this fee – Mr. Power said he has held off implementing the fee since the increase last July. Mr. Kolman said under the proposed change approximately \$90,000.00 compared to \$400,000 without the proposed change. Mr. Power said he will have to bill the industries soon because the fiscal year is coming to an end. The expected fee recovery of \$90,000.00 will pay for a full staff member, equipment and supplies, and overhead for a year. Mr. McNeil asked if the position has existed for a period of time. Mr. Power said the position has existed for some time with funding previously provided by other programs as part of the revenue generated by the Department. The price index portion of the fee increase is in place to avoid requesting increases on a one, two or three year basis for a large increase. This amount of increase would be annually to cover any additional costs to provide this service.

Ms. Adamic asked if all of the programs are revenue generated and self-sufficient. Mr. Power said yes with the exception of this program.

Dr. Jasser asked Mr. Power if the Department looked into other ways of recouping these expenses without going to providers – maybe through event coordinators. Mr. Power said it would be difficult with all of the events and numerous contractors to try and track down each and every unit. Dr. Jasser asked if we are currently doing inspections. Mr. Power said yes we are doing inspections. This is the only source of income from chemical toilets at this time. The event planners pay for this service.

Supervisor Kunasek said had there been a response at the first meeting the \$10.00 fee would not have been imposed. It is not actually fair to characterize this as another increase because we are actually reducing the fee per unit because the industry provided us with accurate numbers.

Mr. Moore said he has only seen one fee request for portable units and it was paid. He really wonders why you are worrying about having an inspector with so few complaints.

The vendors are proposing a flat fee from another source because they move in and out all the time.

Mr. McNeil asked if you can easily pass these fees on to your customers. Mr. Martell said the fee can be passed down but what will happen will eventually be a price war. When the inspector goes into the field and finds violations he might want to fine us but we have no control on how many units are ordered through the event planner and why should we be fined if you are not adequately providing services. We are paying for our own police for something we can not control. Mr. McNeil asked if the inspector finds something wrong who gets hit with the violation. Mr. Kolman said it is sent to the provider of the portable unit and the onsite consumer for compliance.

Mr. Spicker said without inspections the twenty percent would not necessarily be in compliance; we really need a fee structure in place.

Supervisor Kunasek said Public Health is our concern and who pays for services. It is the policy of the BOS, where possible, to recover the costs by the users/providers so the general public is not asked to pay for the service.

Dr. Cook said public complaints and public health inspections are different.

Someone already performs the service we are assigning a revenue stream for the service being performed. It is a good suggestion to consider combining inspections with other services such as building inspectors. There are also areas where jurisdiction does not pertain and we have county-wide jurisdiction to provide the service.

*A motion was made by Supervisor Kunasek to approve all of the changes to Maricopa County Health Code. Mr. Spicker seconded the motion*

Mr. McNeil questioned the tiered grouping per unit fee breakdown, suggesting that a 1-49 unit tier rather than 1-24 units and a second tier from 50-99 units. Mr. McNeil is not in agreement to include a yearly price index in the motion. If a cost increase is needed a public hearing should be held and the reason for the fee increase should be discussed each time an increase is required. These fee increases are being requested by the government not by the public and hearings for discussion are an essential part of the process for increases.

Mr. Spicker asked if Mr. McNeil's request to deny the price indexing was made with the intent to accept the portable toilet increase only. Mr. McNeil said no it

was meant for the entire package today across the board not to include price indexing as part of the motion. Alternatives between a user and owner fee should be a mix. It may be difficult to initiate and be problematic, but the results will lower the owner fee and raise the user portion of the fee.

*Mr. Spicker made a motion to adopt the rest of the changes presented today in the Health Code with the exception of the price index portion and not to include the portable toilet fee adjustment pending further exploratory status. The motion was seconded by Mr. McNeil and passed unanimously by eight votes.*

*A motion was made by Dr. Jasser to continue the Public Hearing Meeting next month for the portable toilet fee increase and the automatic price indexing presented today. Mr. Spicker seconded the motion. The motion passed unanimously by eight votes.*

#### **DISCUSSION ITEMS:**

##### **Director's Report:**

Due to time restraints, Dr. Bob England, Director, Department of Public Health, highlighted a few items of interest:

Strategic Planning – Public Health is investigating opportunities to co-locate services with community partners.

RIR's – Due to county economic forecasts, all county departments have been asked not to submit any requests for additional funding (with the exception of West Nile Virus). This will prohibit Public Health from adding positions to further the mission of the department. In addition, some existing but unfilled positions have been deleted in order to decrease the budget, including both positions in the new Evaluation Unit.


Statewide Assessment – There are multiple methods by which the department may attempt to evaluate programs or the overall public health system. All would require significant effort and resources. There is a possibility that the state may undertake a state-wide public health assessment called MAPP, Mobilizing for Action through Planning and Partnerships, to perform an evaluation of the public health system. If the state decides to undertake this program it will be a multi-year process.

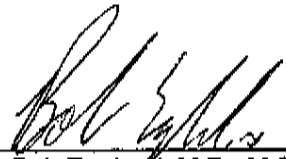
#### **CALL TO THE PUBLIC:**

No one was present.

#### **CURRENT EVENTS SUMMARY:**

The meeting adjourned at 5:00 p.m.

  
Audrey Adamic, President

  
Bob England, M.D., M.P.H., Director

The minutes were transcribed and edited by Susan Attiah.