

NOTICE OF MEETING AND AGENDA
SNOHOMISH DISTRICT BOARD OF HEALTH
September 8, 1964
1:45 p.m.

Extension Building - Conference Room

AGENDA

1. Call to Order
2. Minutes of August 11, 1964
3. Auditing Committee
4. Old Business
5. New Business
 - A. Staff Changes
6. Reports
 - A. Health Officer
 - B. Communicable Disease Report - Dr. Darrough
 - C. Sanitation
 - D. Vital Statistics
 - E. Financial
7. Authorization of Accounts
3. Adjournment

Clifford Anderson, M.D., M.P.H.
District Health Officer

MINUTES
SNOHOMISH DISTRICT BOARD OF HEALTH
September 8, 1964

Present: Member, Mrs. Simpson, Messrs. Kraetz, Wyatt, McCollum, Krekow, and Stocker. Also, Dr. Anderson, Dr. Darrough, Dr. Millard, Miss Findlay, Mrs. Schultz, Mr. Stockton Mr. Moser, Mr. Ingram, Miss Bartholemew, Mr. Gissberg, and Mrs. Supper.

Minutes Moved by Mr. Kraetz, seconded by Mr. Krekow, and carried that the minutes of August 11, 1964, and as previously circulated to members, be approved.

Auditing Committee Mr. McCollum appointed Mrs. Simpson and Mr. Wyatt as the Auditing Committee.

Staff Changes Dr. Anderson announced the following resignations: Mary Jones, Supervisor of Nurses, effective September 8, 1964; Mary Hammer, PHN II, effective September 22, 1964; and one year educational leave of absence for Helen Scales, PHN III, effective September 23, 1964. He also announced the following appointments: Geraldine Celeen, PHN II, effective September 28, 1964 at a monthly salary of \$443; Eva Biesen, Clinic Nurse, effective September 8, 1964 for nine months of each year at a monthly salary of \$390; and the promotion of Florence Carleton, PHN III, to the position of Supervisor of Nurses, effective immediately. Action on the above appointments was deferred until after the budget is passed.

Reports Dr. Anderson stated that the report of the first examination of the Health District by the State Auditor's Office had been received and read the General Observations of the Examiner to the Board.

Dr. Darrough made a short report on the status of the communicable disease in the State.

Sanitation: Mr. Ingram reviewed the lease between the Tulalip Tribes, a corporation, and the Seattle Disposal Company. His opinion and discussion are contained in the attached letter, dated September 4, 1964, addressed to Dr. Anderson.

Vital Statistics: For July, 1964, as appended. Dr. Anderson commented that suicidal death rate remains about the same despite the season.

Financial Report Revenues deposited as of August 31, 1964: \$208,840.80.
1964 Operational Cost up to August 31, 1964:

<u>Budget Item</u>	<u>Expended</u>
Salaries	\$161,017.15
Maintenance and Operation	37,958.85
Capital Outlay	2,030.71

Authorization of Accounts Moved by Mrs. Simpson, seconded by Dr. Stocker, and carried that the accounts and as presented for payment be approved, as follows:

Salaries - September, 1964 - \$19,190.98
 M. & O. - August, 1964 - 3,046.32
 Cap. Outlay - August - --

Preliminary Budget Dr. Anderson presented the budget for the Snohomish Health District for 1965 as prepared by the Administrative Staff of the Health District and the Budget Committee composed of two members of each commission. It showed a deficit of \$32,452. Discussion followed concerning ways and means of balancing same or increasing revenues. No conclusion was made, and Dr. Anderson was directed to present the balanced budget on Thursday, September 17, 1964 at 1:45 o'clock p.m.

Recess The meeting was recessed at 2:45 o'clock p.m. to reconvene on Thursday, September 17, 1964 at 1:45 o'clock p.m.

Meeting cont'd September 17, 1964 Present: Members, Mrs. Simpson, Mr. Alexander, Mr. Krekow, Mr. Wyatt, Mr. Kraetz, Dr. Stocker. Also, Dr. Anderson, Dr. Darrough, Dr. Millard, Miss Findlay, Mrs. Schultz, Mr. Stockton, Mr. Wilkinson, and Mrs. Supper.

In the absence of Mr. McCollum, Chairman, Mr. Krekow, Vice-Chairman, presided.

Budget Adopted Dr. Anderson presented the balanced budget to the Board, explaining that to do so, it was necessary to delete three nursing positions and give no raises to the remaining staff. This means the present staff will have to take on added duties although school services will be curtailed, there will be no immunization clinics as planned in South County, and nursing calls will be more selective. The Attorney to the Board of Health has been put on a fee for service basis instead of a retainer as is now budgeted. Because of the antiquity of the District's fleet of cars, two more were added to the budget, making a total of four. Discussion followed. All were in favor of exploring the possibility of having other cities and towns contribute. Mr. Wyatt stated that he felt it mandatory that the Board work out a solution to the financial problems of the Health District. Dr. Anderson and Miss Findlay explained the functions of public health nursing and school health services.

All members agreed that it was necessary to start at once to work out new financing of the Health District, and the Secretary was directed to obtain from Kitsap-Bremerton Health District information concerning their agreement with the towns in their district.

Moved by Dr. Stocker, seconded by Mr. Alexander, and carried that \$1200 be transferred from CAPITAL OUTLAY - New Automobiles to SALARIES - Assistant Health Officer, making a total of \$6800 for New Automobiles, and setting the Assistant Health Officer's salary at \$300 per month, or \$3600 annually, in the Snohomish Health District's budget for 1965.

Moved by Mr. Alexander, seconded by Dr. Stocker, and carried that the 1965 Budget for Snohomish Health District, as attached, be adopted, subject to five days review, and if this motion be found legal by the Attorney to the Board of Health.

Appointments
Approved

Moved by Mrs. Simpson, seconded by Mr. Kraetz, and carried that the appointments recommended by Dr. Anderson on September 8, 1964, be approved.

Health Officer

Dr. Anderson stated that he would like to attend the American Medical Association Convention in New York City. If he went, he would also visit Washington, D. C. and Atlanta, Georgia at the expense of the U. S. Public Health Service. He would be absent at the next Board meeting and Dr. Darrough would preside as Executive Secretary.

Moved by Mr. Alexander, seconded by Mr. Kraetz, and carried that Dr. Anderson be authorized expenses to cover round trip plane fare to New York City, hotel, and meals enroute and while in that city in the total amount of not more than \$430.

Sanitary
Land Fill

Moved by Dr. Stocker, seconded by Mr. Alexander, and carried that the Board of Health concurs with the position taken by the Snohomish County Commissioners to require an application for a conditional use permit by the Seattle Disposal Company before they establish a sanitary land fill on Indian lands located near Marysville, in accordance with the opinion of Mr. Lloyd Meeds, Snohomish County Prosecuting Attorney, contained in the attached letter. The Secretary to the Board was instructed to write a letter to Mr. Meeds informing him of this motion.

Adjournment

The meeting adjourned at 2:55 o'clock p. m.


Chairman

SNOHOMISH HEALTH DISTRICT

BUDGET FOR 1965

REVENUES		\$308,174
SALARIES	\$235,924	
MAINTENANCE AND OPERATION	64,950	
CAPITAL OUTLAY	<u>7,300</u>	<u>\$308,174</u>

Adopted September 17, 1964 in recess
session of the Regular Board of Health
meeting held September 8, 1964

REVENUES - 1965

1. LOCAL FUNDS

County .4 Mill Tax Levy	\$83,000
County of Snohomish	15,350
City of Everett	48,650
County School Districts	17,526

PERMITS AND MISCELLANEOUS:

Septic Tank Permits and Certifications	11,000
Septic Tank Installers and Pumps	4,320
Establishment Licenses	8,500
Nursing and Boarding Home Licenses	1,200
Food and Bev. Service Workers' Permits	3,800
Refuse Disposal Contract	100

FEES:

Plat Fees	2,000
Other (Vital Statistics, Immunizations, Travel Certifications, Water Samples, etc.)	12,500

\$207,946

2. STATE AND FEDERAL FUNDS:

General	19,000
Indian Services	2,400
Special Services - Pediatrician Fees	6,000
Public Health Social Worker	6,260
Mental Health Project	13,308
Vocational Rehabilitation	520

47,488

3. TUBERCULOSIS FUNDS

43,502

4. CASH ON HAND

9,238

\$308,174

SALARIES 1965

	Monthly	Annual	Total
MEDICAL			
District Health Officer	\$1438	\$17,256	\$17,256
NURSING			
Director of Nursing	627	7,524	
Nursing Supervisor	550	6,600	
Nursing Supervisor	527	6,324	
Public Health Nurse III	462	5,544	
2 Public Health Nurses III each @	483	11,592	
2 Public Health Nurses III each @	504	12,096	
5 Public Health Nurses II each @	443	26,580	
Public Health Nurse I	483	5,796	
Clinic Nurse	443	5,316	
Clinic Nurse 9 mos. annually	407	3,663	
			91,035
SANITATION			
Director of Sanitation	715	8,580	
Supervisory Sanitarian	575	6,900	
Senior General Sanitarian	443	5,316	
Senior General Sanitarian	527	6,324	
2 Senior General Sanitarians each @	550	13,200	
Senior General Sanitarian	575	6,900	
Senior Sanitary Aide	407	4,884	
			52,104
CLERICAL			
Clerical Supervisor	462	5,544	
2 Senior Stenographers each @	424	10,176	
Stenographer	358	4,296	
Stenographer	342	4,104	
Stenographer	328	3,936	
Typist	342	4,104	
Typist	301	3,612	
			35,772
OTHER			
Bacteriologist	550	6,600	
Public Health Veterinarian	601	7,212	
Mental Health Consultant	655	7,860	
Public Health Social Worker	527	6,324	
X-ray Technician	328	3,936	
Assistant Health Officer	300	3,600	
			35,532
EXTRA HELP			3,500
EXTRA HELP - Tuberculosis only			725
			<u>\$235,924</u>

MAINTENANCE AND OPERATION - 1965

ITEM:		TOTAL ANNUAL
1. Employee Benefits:		
(a) State Retirement and Social Security	\$22,500	
(b) Industrial Insurance	<u>1,000</u>	\$23,500
2. Fees:		
(a) Pediatrician	6,000	
(b) Attorney	1,000	
(c) Registrars	1,600	
(d) Other	<u>400</u>	9,000
3. Services:		
(a) Postage and Telephone	5,200	
(b) Expense Equipment	600	
(c) Insurance and Bond Premiums	<u>3,000</u>	8,800
4. Supplies and Materials:		
(a) Records and Supplies	2,000	
(b) P. H. Literature	250	
(c) Clinic and Laboratory	<u>6,000</u>	8,250
5. Travel:		
(a) Transportation and Expense	8,000	
(b) Auto Maintenance	2,500	
(c) Repairs and Fuel Purchased from the County	<u>4,500</u>	15,000
6. Other Maintenance and Operation:		400
		<u>\$64,950</u>

CAPITAL OUTLAY - 1965

ITEM:	AMOUNT
Three Metal File Cabinets	\$ 250
Used or New Office Equipment	250
Four New Automobiles	6,800
	<u>\$7,300</u>

September 22, 1964

Mr. E. Lloyd Meeds,
Prosecuting Attorney
Snohomish County
Court House
Everett, Washington.

Dear Mr. Meeds:

At the last Board of Health meeting on September 17, a motion was made to concur with the position taken by the Snohomish County Commissioners to require the application for a conditional use permit by the Seattle Disposal Company before they establish a sanitary land fill on Indian lands located near Marysville.

This motion was in accordance with the opinion of your office as rendered in your letter of September 14, 1964. The subject of this letter was "jurisdiction to control a sanitary fill on Indian land."

Very truly yours,

Clifford Anderson, M.D., M.P.H.
Executive Secretary,
Snohomish District Board of Health

CA:1

CC: E. Sam Kraetz
J. E. McCollum
W. A. Wyatt
Mildred Simpson
A. F. Alexander
A.C. Krekow
Dr. M. M. Stocker

INTER-OFFICE MEMO

TO Snohomish County Commissioners

Date September 14, 1964

FROM E. Lloyd Meeds
Prosecuting Attorney

Subject Jurisdiction to control
a sanitary fill on
Indian land

Gentlemen:

You have requested an opinion as to whether you have jurisdiction as County Commissioners to control the establishment of a sanitary land fill on Indian lands located near Marysville. You have also requested the same opinion in regard to your position as members of the Snohomish County Health District. As to the latter question, I would refer you to the letter of Mr. W. F. Ingram, dated September 4, 1964, to Dr. Clifford Anderson, Health Officer of the Snohomish County Health District.

It is my opinion that you probably have jurisdiction to control the establishment of a sanitary land fill on Indian land under the Snohomish County Zoning Resolution No. 7 by requiring that the Seattle Disposal Company apply for and obtain a conditional use permit prior to the establishment of any land fill. I would recommend that I be instructed on behalf of Snohomish County to attempt to secure the voluntary compliance with the requirements of the zoning resolution and, if necessary, that I be instructed to enjoin any use of said property prior to compliance with the zoning requirements by the application for and obtaining of a conditional use permit.

The primary jurisdictional problem is the extent of the agreement by the Tulalip tribe to come under the state's criminal and civil jurisdiction, which agreement was entered into and proclaimed by the Governor to go into effect on the 7th of July, 1958. Under the authority of chapter 37.12 of the R.C.W. as passed in 1957, and prior to the amendment in 1963, the basic constitutionality insofar as criminal jurisdiction is concerned was decided in the case of State v. Paul, 53 Wn.(2d) 789. Although that case did have some discussion in regard to the civil jurisdiction, that point was not squarely raised. Although there is no definitive Washington case that I have been able to locate, it is my opinion that the court will probably uphold the constitutionality of the 1957 act in regard to the civil jurisdiction and also that the court would probably declare that the state's and county's jurisdiction would extend to the control of zoning problems.

Assuming that the county has jurisdiction, then under the provisions of the zoning resolution restricting certain uses in rural use districts, and the amendment to Sec. 8, sub-heading B, paragraph 2, it is my opinion that a conditional use permit would have to be obtained to comply with this resolution.

September 14, 1964

Insofar as your duties as County Commissioners, R.C.W. 36.70.670 provides:

"The board (Board of County Commissioners) may determine and establish administrative rules and procedures for the application and enforcement of official controls, and may assign or delegate such administrative functions, powers and duties to such department or official as may be appropriate."

Under Section 14.5 of the Snohomish County Zoning Resolution No. 7, authority is set forth for the Prosecuting Attorney's office to enjoin any person from setting up or using any property contrary to the provisions of the resolution.

The advantages of the recommended procedure are:

1. That the jurisdictional question can be determined prior to the creation of any possible nuisance by the pollution of air or tidewater because of improper location of the project or insufficient safeguards and controls in the operation of the project.
2. That the jurisdictional question can be determined by the courts prior to the expenditures of large sums of monies by any persons which may be rendered unnecessary.
3. That requiring the presentation of the problem to the Board of Adjustment will provide a forum to hear and decide the need for a land fill and the necessary conditions and safeguards which may be needed after hearing all arguments and evidence for or against the project at a public hearing.

Upon your request, I will communicate with the Seattle Disposal Company in an attempt to secure their voluntary cooperation by their applying to the Snohomish County Board of Adjustment for a conditional use permit. Failing such cooperation, upon your request this office will bring an injunction action on behalf of the county requesting that the Seattle Disposal Company and the Tulalip Tribes, Inc. be restrained from commencing garbage disposal or sanitary land fill operations without the obtaining of a conditional use permit.

Very truly yours,

E. Lloyd Meeds

E. LLOYD MEEDS
Prosecuting Attorney

ELM:mr

BELL, INGRAM & SMITH

LEWIS A. BELL
WILLIAM F. INGRAM
NEWELL SMITH

ATTORNEYS AT LAW
314-316 FIRST NATIONAL BANK BUILDING
EVERETT, WASHINGTON

TELEPHONE
ALPINE 9-4124
ALPINE 9-4125

September 4, 1964

Dr. Clifford Anderson, M.D.
Health Officer
Snohomish Health District
3011 Rockefeller Avenue
Everett, Washington

Dear Dr. Anderson:

With reference to the sanitary land fill to be conducted on property owned by the Tulalip Tribes, a corporation, by a lessee known as Seattle Disposal Company, you have asked the writer whether or not the Health District or the county has jurisdiction to impose any restrictions or to exercise police power over this type of activity.

First, a copy of this lease is in the hands of David Stockton the Sanitarian for the Health District. The real property is more particularly described in said lease document and it may be generally referred to as portions of Sections 31 and 32 in Township 30, North Range 5 E.W.M., which property is more commonly described as lying West of PSH No. 1 and between Ebbey and Steamboat Sloughs.

Second, I have ascertained that the lessor corporation, to be distinguished from the Tulalip Tribes as a political entity, acquired title to the real property which is the subject matter of the lease in two different parcels. By one parcel the lessor acquired fee simple title in a partition sale under the jurisdiction of the Superior Court of this county; and the lessor corporation acquired the balance of title in a sale which was negotiated through the Bureau of Indian Affairs of the Department of Interior of the United States of America. As to the first acquired parcel it will be necessary, as I understand the Federal statute (25 USCA Section 403a-2), to obtain the consent of the Secretary of the Interior for the sale of said property; as to the parcel acquired through the Bureau of Indian Affairs, it is my understanding that this parcel is held in trust by the United States of America for the lessor corporation and may not be sold without the consent of the Secretary of the Interior.

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September 4, 1964
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It would appear, therefore, that at least a portion of this property has a very definite restriction upon alienation, and it would further appear that the right of the lessor to alienate that portion acquired at the partition sale in Superior Court, by Federal statutory law is further encumbered by a similar type provision, that is the Tribes must acquire consent. The statute is in this language, to-wit:

"Notwithstanding the provisions of the Constitution and the Charter of the Tulalip Tribes of the Tulalip Reservation, any lands that are held by the United States in trust for the Tulalip Tribes, or that are subject to a restriction against alienation or taxation imposed by the United States, or that are on and after June 18, 1956, acquired by the Tulalip Tribes, may be sold by the Tulalip Board of Directors, with the consent of the Secretary of the Interior, on such terms and conditions as the Tulalip Board of Directors may prescribe and such sale shall terminate the Federal trust or restrictions against alienation or taxation of the land! ..."

In 1957 the legislature of the State of Washington acting in accordance with authority and the consent of the United States given by Public Law 280, 83rd Congress, First Session, bound itself to assume criminal and civil jurisdiction over Indians and Indian territory reservation's country and land when the Tribe acting through its council or other governing body, politic, expressed a desire for such jurisdiction of the state. It is my understanding that the Tulalip Indian Tribe, by appropriate resolution, has requested the State of Washington to assume both criminal and civil jurisdiction to a full extent authorized by Federal law and pursuant to R.C.W. 37.12 the State of Washington has jurisdiction over the Indian territory known as the Tulalip Indian Reservation with the possible exception hereinafter noted as to land with a restriction on alienation which lies within said Tulalip Indian Reservation.

It is to be noted that the state law, R.C.W. 37.12 imposes a limitation upon the application of this assumption of jurisdiction even when such request is made by the Tribe. This exception is noted in R.C.W. 37.12.060 which reads as follows, to-wit:

"Chapter limited in application. Nothing in this chapter shall authorize the alienation, encumbrance or taxation of any real or personal property including

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water rights and tidelands belonging to any Indian or any Indian tribe, band or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement or statute or with any regulation made pursuant thereto;"

It is apparent that the subject property under the terms of this lease which we have referred to above is subject to a limitation on the right of the lessor corporation to sell said property as herein set forth. The question then comes whether this is a restriction against alienation imposed by the United States as contemplated by the Federal Enabling Law which authorized the various states to promulgate an Indian assumption of jurisdiction as we find on the statute laws of the State of Washington. I conclude that this very likely would be held by a court of law to be a restriction against the free alienation of the fee simple title and this clearly would be applicable to that portion of the subject property which is held in trust by the United States of America for the Tulalip Tribe.

The next inquiry, therefore, is whether or not the state's regulation of the activity contemplated by the lease on the subject property is inconsistent with any Federal treaty, agreement or statute or any regulation made pursuant thereto.

To answer this question we must turn to the state law which is available for the regulation of this activity contemplated by the lease.

Here I am not concerned with the public nuisance laws which the State of Washington through the prosecuting attorney's offices of the various counties may enforce, since it is quite obvious that if the activity contemplated by the lease results in a public nuisance as defined by present state law that the prosecuting attorney and/or the State of Washington through the Attorney General's office would have authority to proceed to abate such a nuisance.

I take it we are here concerned with an inquiry as to whether or not the Health District of the County of Snohomish as creatures of the State of Washington being municipal corporations have authority to regulate or restrict the activity contemplated by the lease in question.

Before answering this question it should be observed that the State of Washington itself through any one of its various

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executive agencies may well have some regulatory authority. Reference is made to the Pollution Control Commission, Department of Fisheries and other state agencies that may be interested in the activity contemplated by the lease because of its proximity to Port Gardner Bay and the various sloughs mentioned.

In so far as the State Board of Health is concerned I note their regulation .50.120 dealing with the disposal of garbage. We are further aware that the State Board of Health has considered the promulgation of various regulations governing the operation of a sanitary land fill. No such regulations have been forthcoming to my knowledge. Further, unless there is an expressed statutory enactment in that field authorizing the State Health Officer to proceed, and I know of none, I question whether or not at the state level any regulation of the contemplated activity would be binding upon the lessee.

Local regulation at this time is based upon the zoning resolution of the County of Snohomish. The County Commissioners have recently enacted an amendment to said zoning resolution by adding a second paragraph to sub-heading "B" in Section 8 thereof. This amendment makes a sanitary land fill or any land fill operation or method for disposal of garbage a special property use to be permitted upon the issuance of a conditional use permit by the Board of Adjustment of the County of Snohomish. The Board must apply such standards and tests as set forth in the zoning resolution and particularly those found under Section 11 thereof.

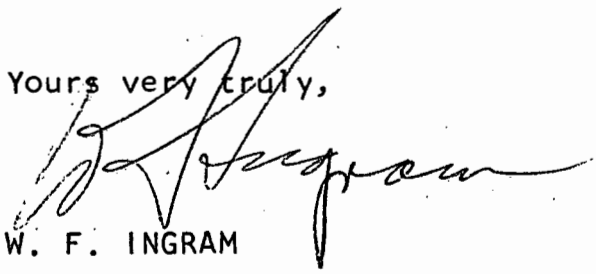
The Board of Adjustment has authority to impose specific conditions precedent to the establishment of such land activity therein described, and for that purpose the general policies relating to sanitary land fills and the standards for operation of such land fills in tidal areas as recently adopted by the Snohomish Health District Board of Health would provide a guide to the Board of Adjustment in prescribing specific conditions precedent to the granting of such use permit. In my judgment the activity contemplated by the proposed lease falls within the amendment to the zoning resolution and a conditional use permit should be obtained by the lessee before such activity is commenced. I know of no federal treaty, agreement, statute or regulation which would be inconsistent with the application of the local zoning resolution.

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The fact that the activity will be conducted by a non-Indian, lessee, would seem to me to be of importance in considering the application of R.C.W. 37.12.06, if the purpose of such statutory provision was to leave the Indian free of local regulation in the use of a restricted fee.

There is no other action which the Snohomish Health District may take at this time except to be prepared to make appropriate recommendations to the appropriate county agencies as indicated.

Yours very truly,



W. F. INGRAM

WFI/lmn

BIRTHS AND DEATHS OCCURRING IN SNOHOMISH COUNTY
AS OF July 31, 19 64

	Total to Date	Total for Month	Total County Res.	Total Non Res.
BIRTHS	1642	254	235	19
FETAL DEATHS	27	7	6	1
DEATHS	906	105	96	9
"Motor vehicle"accidents	22	6	5	1
Adult accidental deaths	18	5	5	
Infant accidental deaths	2			
All other infant deaths	28	6	5	1
Suicide	13	2	2	
Homicide	3	1		1
Undetermined (of above)				
Infectious diseases				
Malignant neoplasms	134	9	9	
Cerebral vascular accident	145	9	8	1
Acute coronary	51	8	8	
All other deaths	490	59	54	5