

**BOARD OF HEALTH
MINUTE SUMMARY**

February 10, 2016

3:00 PM

MEMBERS PRESENT:

Jeff Burrows
Michael Turner
Roger De Haan
Dr. Wayne Chilcote
Katherine Scholl

STAFF PRESENT:

Carol Calderwood, MD, HO
John Palacio, RCEH
LuAnn Burgmuller, PHN
Chris Taggart, minutes

Member/staff absent:

None.

Guests Present:

Terry Nelson, Planning Director
Dan Browder, Civil Counsel
Commissioner Ray Hawk
Rod Daniel, Sanitarian
Judy Mucha
Daniel Wise
Ed Hudson
Joyce Burr
Scott Mucha
Richard Mucha

I. January 13, 2016 draft minutes:

Mick made a motion to approve the January 13, 2016 minutes as corrected. Seconded by Roger. Discussion: none. Public Comment: none. **All voted “aye”. (5-0)**

II. CORRESPONDENCE:

Mrs. Judy Mucha handed out photos.

III. DEPARTMENT REPORTS:

Health Officer: Carol Calderwood MD,

Carol stated that there has been a couple of B flu cases but neither was hospitalized. Both are doing well. CDC is expecting more.

She spoke about macaque monkeys and Dan suggested that an MOU be written stating Selima will not get any more. She asked what the final decision was regarding masks being worn or required. Jeff said the BOH said to follow the CDC guidelines. She asked how that information would be remitted to the state. Jeff said he emailed Dan Browder right at the January meeting. He then said Selima agreed at that January meeting to not getting any more macaques. Dan Browder said if the County has an interest in allowing no more macaques, the County could write some sort of stipulation on the permit, stating no more macaques will be allowed in the County. Dan will look into and draft a stipulation. Carol said the state FWP should also follow CDC guidelines and that info needs to be included in stipulation.

Next meeting agenda item: in general regulation draft review by Dan Browder for macaques in Ravalli County. Roger requested seeing state law in order to make sure holes in the state law are covered by the County.

Carol then spoke about the Zecha virus, which the office and County are just getting educated on. There was a case of Hepatitis A in an unvaccinated traveler.

Public Health Nurse: LuAnn Burgmuller

LuAnn reviewed the office stats and said flu season has been slow. The Zika virus has not hit Montana yet but will keep the BOH posted. Her office has been interviewing for a new nurse and the finally has hired one, Kathleen Schrader. Reminder: April 07, 2016 meeting with DPHHS, in BCC meeting room at 11AM.

RCEH: John Palacio

John handed out his office stats. Septic permits for last month were higher than January 2015. The BCC just approved a \$5.00 event permit and fee for temporary food services which will allow to do several events instead of a license for each event.

IV. OLD BUSINESS:

1. Federal EPA Letter DRAFT – Roger: continued from 01-13-16 BOH meeting

Roger did not make any changes to his draft as Katie somewhat took over. Katie said she is waiting to hear back from Judy Hoy before she presents a new draft to BOH. Item TABLED until Katie is ready.

2. Long Avenue site visit UPDATE - John: Tabled from 01-13-16 BOH meeting

Dan Browder spoke about his memo dated February 08, 2016 which presented the BOH with choices they could choose from. Dan explained and reviewed the choices within the memo. Jeff asked would the covenants provide anything that the septic regulations don't. Dan said yes in some ways as they, the covenants, are tailored for this location specifically. Jeff spoke about the fine placeholder, which he is not in favor of. Jeff said the most extreme would be requiring them for building modifications (#4 and #5). Mick is comfortable with items 1-3, Roger agreed and so did Wayne and Katie. Mick suggest that a \$1,000 fine be imposed but suspended upon compliance. Roger suggested referencing the actual fines, by section of regulations, but also state the fine will be suspended upon successful completion. Dan will draft and agreement, with John Palacio's help. Dan said he has started the draft covenants. John to contact the Burt's to attend the next meeting.

Jeff asked if just listing that staying in compliance with the permit would be a simpler way. Dan said the fine portion should be listed within Item #2 and not within the covenants. Jeff wants next land owner to

know going in what can and cannot occur. Dan said covenants should reiterate what the regulations say and becomes a voluntary imposition to the property. Any subsequent owner would be on notice of what the permits and regulations include. Mick suggested that the very basics be listed within the draft covenants. Roger agreed. Dan said covenants do get recorded and goes with the land, an agreement would not. Jeff to work with Dan on creating draft covenants. Consensus: BOH ok with Jeff working with Dan on the covenant draft. Continue to next meeting.

V. NEW BUSINESS:

1. Previous Variance approvals and new property owners - John

John said the question is when someone comes to BOH for variance and variance is granted, does the variance approval stay with the land or just with the person requesting it. He then gave an example. Roger thinks a variance is granted to the approval process for a site, which is the land. John said his example did not have a timeline but the variance just sat and nothing was done with it. Rod stated that the renewal timeline permit did expire but what they are asking is if the variance has expired. Roger thinks once a permit expires the owner should come back to BOH to ask.

Roger moved to allow the continuation of this variance for RCEH to renew the septic permit, for hangar 251, based on the 4 Findings of Fact (FOF), to be executed by BOH Chair. Seconded by Mick. Public comment on motion: none. Discussion: Mick said as long as the situation remains the same with no changes, RCEH can renew the permit. If the situation changes, John should bring in before the BOH on case by case basis. Jeff suggested having John write up a report on each case and let the BOH decide. Dan asked if new owner came back in to reapply for variance what would the process be. John explained. Dan suggested having a policy in either case. Rod said the owner would really like a bathroom in the hangar. Rod also said the actual property owner is Ravalli County.

FOF 1: RCEH permit has expired

FOF 2: approved variance did not have a deadline.

FOF 3: conditions on the ground are the same or very similar to when variance was issued/approved.

FOF 4: the new lessee has agreed to all conditions of the variance.

All voted "aye" (5-0).

2. Appeal of RCEH decision to deny replacement permit for 2772 Alpinglow - John

John gave brief background. The lot was created in 1973. In May 2007, the mobile home was removed from property (which was there since 1973). In 2007 building new construction was not allowed in flood fringe. Shanda of RCEH did a site evaluation and the permit was not issued, pending that the dwelling be replaced and meet all flood regulation. Mrs. Mucha explained that they finally received permit approval seven weeks prior to the deadline of installing an engineered system and moving a doublewide onto the property. When the laws changed about building in flood fringe, they were trying to get some sort of permit to call it a replacement system. There are two 1,000 gallon tanks on the property which are not being used. They would like to install an engineered system so that they could sell the property and someone could enjoy it. It is a really pretty 5 acre piece. The Mitchel Slough is the eastern boundary of the lot.

John said replacement permits and systems are allowed in flood plain. The Mucha's are asking to appeal the RCEH denial of a replacement system permit issuance.

The trailer was placed when permitting was allowed and the owner had multiple opportunities to get a replacement system permit (1973-2007). Mrs. Mucha said her parents did not pursue a replacement system because they did not need one.

Mick said there has been no septic being used since 2007. John said correct. Mrs. Mucha requested that BOH grant this appeal request and that the new replacement system be an engineered system located within the flood fringe.

Roger asked Mrs. Mucha where the confusion lies back from 2007. John said RCEH was waiting on decision from the floodplain office. Terry Nelson, Planning Director, explained that in 2007 the trailer was removed, which had been there approximately 40 years. Because of regulations at that time, no new construction could occur within any floodplain. The Floodplain Regulations would allow a replacement structure within 6 months with a floodplain permit. Mucha's did get a floodplain permit, which took time and processing, allowing less than 2 months left for the Mucha's to act. New double wide did not get placed within that time. The floodplain regulations changed a year ago, which now is permissible to build in the floodplain but they need a septic permit, which is not allowed. They could get a replacement septic permit if the original system was installed prior to 1972 or had a valid permit. Strict regulations state that no replacement system will be approved within flood fringe, without a valid permitted system. BOH could rule that the original septic was valid and thus RCEH could issue replacement system permit and Mucha's could build. Mrs. Mucha said the neighbors have signed a petition all concurring that a house on this lot would be nice.

Mrs. Mucha did request an extension on the floodplain permit. Laura Hendrix told her that there were no extensions but then Mrs. Mucha received a letter from Laura stating "you missed your extension date". Terry said the letter was sent to Mrs. Mucha on September 19 with a deadline of November 15, stating they had to replace the removed structure by November 15, 2007. The floodplain permit had a one year approval with a one year extension allowable. John said the regulations say a system in place (working or not) prior to 1972, would be grounds for RCEH to issue a replacement system permit. Roger said two regulations are battling each other: floodplain and RCEH. Since a permit was in the process of being issued, is significant. Mrs. Mucha said a site evaluation was done in 2007. Rod said the level of pond and gravel pit are good indications of groundwater in the area. John said this is all based upon the definition of an "existing system".

Mick thinks this is the reason for the variance request system. Katie agrees. It seems the owners were trying to comply with all the rules and regulations. John said the physical placement of the mobile onto the lot was the hold up. Rod said the subdivision was completed without DEQ review/approval. Each lot was reviewed individually and read the regulations. RCEH would have to review the request as a new system, not a replacement. There is nothing within the RCEH regulations to allow RCEH to issue a replacement system, but if there is a house already there, RCEH does issue them, rather than require them to remove their house. It is an unwritten policy for RCEH. John provided a cadastral print out which lists the original mobile as a two bedroom.

Mick moved to approve the appeal, based upon the 5 Findings of Fact (FOF), to allow RCEH to issue a replacement septic system permit for 2772 Alplinglow, for one, two bedroom single family home. Seconded by Katie. Public comment on motion: none. Discussion: none.

FOF 1: record keeping and application for RCEH permit issuance was irregular for a few years after 1972.

FOF 2: the property owner did make attempts to comply with regulations and timelines.

FOF 3: RCEH is unable to locate any septic permits for any of the houses within this subdivision.

FOF 4: the property owner is proposing the installation of an engineered elevated sand mound system, with a minimum of 48" separation from season high ground water.

FOF 5: there was an onsite evaluation completed by RCEH in 2007 which would have allowed for a replacement system permit to be issued, if the process had been completed.

All voted "aye" (5-0).

Mick moved to approve a two year timeline in order for the replacement system septic installation.

Seconded by Katie. Public comment on motion: none. Discussion: none. **All voted "aye" (5-0).**

5 minute break was taken.

3. Appeal of RCEH decision to deny continued use of RV's as residences at 293 Luby Lane - John

John gave history of complaints received, stating that a trailer court was being created. An on-site inspection was completed and RCEH did receive a request from Mrs. Burr requesting information on how to start a mobile home park. Mrs. Burr said she has always wanted two homes on the lot and would be willing to put in a second septic system. The travel trailers were purchased by her son Dan as storage and to eventually be fixed up and sold. Then, they had an unexpected family crisis occur which would leave family members without a place to stay through winter. All people will be leaving very soon. Dan gave his experience with septic systems and pumping. There are 6 RV's being lived in by 9 people with one paying rent. The one paying rent does not live there and the rent is to store his camper there during the winter. Dan said he pumps out all the campers being used and the house tank is being pumped every six months. The letter his mom received states they are violating the drain field with too much water going into it. The only extra use is the second shower being used. He then said most people living there are gone or will be gone shortly. He himself has moved out of his trailer and into the second bedroom of the existing mobile.

John said the violations, according to RCEH regulations under definitions of camping and occupied building. When the deadline from RCEH was issued, the owner replied all will be out by spring or early summer 2016. John then requested that a plan be submitted for septic use. He referred to his PowerPoint to identify all RV's on the lot. There are 7 campers and one mobile home. The replies that John has been receiving from Dan Wise has been "within 2-3 weeks", "within a few weeks". Mrs. Burr is appealing the 30 day deadline to get everyone off the property. John said there will be a 30 day deadline or a plan be submitted to RCEH. Dan pointed out that all trailers but one are owned by him. Dan asked what type of plan is needed and suggested June 1, 2016. Katie suggested providing documentation on the pumping schedule (previous and future) and a time line of who will be leaving and when. Dan explained that to date, two RV's are being lived in currently with one person per RV. John said the amount of people using mobile home facilities equates to an 8 bedroom system on an approved 3 bedroom system. Roger explained two things: a legal regulation and definition and what is occurring on the property. The issued septic was approved for one single family residence. If others camp on the property, there needs to be a plan. John said the RV's do not have to be removed they just cannot be lived in. Dan asked if a one bedroom trailer could be connected to existing two bedroom mobile home because the septic permit was issued for a 3 bedroom. John said attaching the trailer would revert back to the definitions. Roger suggested Dan come up with a proposal to somehow add said one bedroom trailer to the existing mobile home to be the defacto 3rd bedroom. Mrs. Burr said this was not an intentional action. People needed help and they helped them.

Discussion ensued about what the submitted plan should include:

1. Dates that people will leave and trailers will no longer be lived in
2. Pumping schedule
3. Connecting trailer to house

Katie moved to continue this item to March 09, 2016. Seconded by Mick. Public comment on motion: none. Discussion: none. **All voted “aye” (5-0).**

VI. Public comment

None.

VII. Next Meeting: March 09, 2016 at 3:00 PM

VIII. Meeting Adjournment

Wayne moved to adjourn at 5:40 PM. Seconded by Mick. All voted “aye” (5-0).