

**LEWIS AND CLARK CITY-COUNTY HEALTH DEPARTMENT  
BOARD OF HEALTH – PUBLIC HEARING MINUTES  
316 N. Park, Room 330, HELENA, MONTANA 59601  
January 24, 2013**

Members Present

Ken Wallace, chair  
Susan Epstein, vice-chair  
Kelly Parsley  
Jennifer Lowell  
Kent Kultgen  
Anne Weber

Staff Present

Melanie Reynolds    John Geach  
Jolene Helgersen    Ben Brouwer  
Kathy Moore            Linda Simmons  
Gayle Shirley          Kathy Pedersen  
Beth Norberg            Frank Preskar  
Norman Rostocki  
Drenda Niemann

Members Absent

Commissioner Andy Hunthausen  
Mayor Jim Smith

Guests Present

Tony Prothero  
County Attorney Paul Stahl  
Michael Homman II

Ken Wallace, chair, called the meeting to order at 1:30 p.m. A quorum was established.

**REVIEW OF AGENDA**

No changes were made.

**RETIREMENT & INTRODUCTIONS**

Mike Henderson, administrator of the Disease Control and Prevention Division, informed the Board of the retirement of John Geach, R.S. Mr. Henderson gave a brief history of Mr. Geach's accomplishments with the Health Department. Mr. Geach thanked the Board and the department. A retirement party for Mr. Geach will be held at the Health Department on January 29, 2013, from 1 to 3 p.m. Melanie Reynolds, Health Officer, introduced new staff members: Drenda Niemann will oversee the WIC and Home Visiting programs as the new Community Health Promotion Division Administrator; Ben Brouwer is the new health educator for the Community Transformation Grant; and Kathy Pedersen, R.N, and Linda Simmons, S.W., have been hired to serve in the new Seriously Disabled Mentally Ill (SDMI) portion of the Community and Home Based Services Program.

**ACTION ITEMS**

The Board considered a variance request for the Canyon Store, Wolf Creek. The Board could grant, deny, grant with conditions, or table the variance request. The public hearing for this variance request was held on December 20, 2012: Ken Wallace opened the public hearing for a variance request for Shawn Othiem, which was heard on December 20, 2012, and tabled until the January 24 Board of Health meeting. Mr. Wallace noted that any new information pertaining to the variance would be heard. He explained the procedures for a variance request before the Board of Health and noted the previous variance materials and minutes in the Board packet on pages 4-21 and 24-31. County Attorney Paul Stahl was available to the Board to answer any questions they had.

Frank Preskar, registered sanitarian with the Environmental Services Division, stated that Shawn Otheim had requested a variance to Section 4.3 Table 4A of the 2011 Lewis and Clark County Onsite Wastewater Regulations, which require a separation between a treatment field and property lines and establish the

acceptable separation distance between a treatment field and a well. Mr. Preskar noted that a variance was granted in July 2012 for this property. A condition of that variance was to abandon the current wastewater system and connect to a potential community wastewater system once it was made available. Mr. Othiem then requested another variance on December 20, 2012, to allow a new wastewater treatment system less than 10 feet from the western property line and less than the required 100 feet (approximately 66 feet) from the domestic well located at 215 Recreation Road. Staff recommended the denial of this variance.

Tony Prothero, representative for Shawn Othiem, stated that the town of Wolf Creek recently had made progress toward collecting the signatures required for the community wastewater system. Kathy Moore, division administrator for the Environmental Services Division, stated that Holly Manning, an engineer for the community wastewater system for the Wolf Creek District, has said that the community of Wolf Creek has acquired all but five of the required signatures to connect to a community wastewater system. Ms. Manning is working on the system's design to submit to the Montana Department of Environmental Quality (DEQ). Mr. Prothero asked the Board, if it decided, to deny the variance, to consider granting the variance for a wastewater treatment system to be less than 10 feet from the western property line with a condition that Mr. Othiem provides an arrangement of another water source.

In answer to a question from Susan Epstein, Mr. Prothero stated that Mr. Othiem had not received an agreement from his neighbor, Mr. Lucas J. Andrews to abandon his well for drinking water purposes and connect to Mr. Othiem's well.

Mr. Wallace opened the variance up to public comment. There being none, the public comment period was closed.

In answer to a question from Jennifer Lowell, County Attorney Paul Stahl stated that the variance granted in July 2012 would not be negated if today's variance were approved or denied unless there was a timed condition placed on the July variance. Mr. Stahl noted that if the Board was to approve the variance for a system to be less than 10 feet from the western property line and deny the variance to be less than 100 feet from a domestic well, the Board might want to place a condition on the variance that a permit could not be issued until an appropriate water source was located.

In answer to a question from Mr. Wallace, Ms. Moore said a well is considered a well regardless of whether it is used for domestic water or irrigation. In order to leave the well in place legally, the Board would have to grant the variance allowing for a setback of 66 feet from the domestic well.

Mr. Wallace read the options the Board had if they chose to approve or deny the current variance request. In answer to questions from Ms. Lowell, Mr. Preskar stated that, if the Board granted the variance to the setback to the property line with a condition that the applicant would have to find a new water source for the neighbor, the well would need to be abandoned. Frank also stated that if a water-testing condition was placed on the variance, there is no protocol for the state, county, or others to collect the test results. The Board would need to establish the protocol.

After further Board member discussion, Kelly Parsley made a motion to deny the variance request for a new wastewater treatment system less than the required 100 feet (approximately 66 feet) from the domestic well located at 215 Recreation Road. Susan Epstein seconded the motion. Kent Kultgen and Anne Weber abstained from voting. The motion passed 5-0.

Susan Epstein made a motion to approve the variance request for a new wastewater treatment system less than 10 feet from the western property line located at 215 Recreation Road with a condition that an alternative domestic water supply is in place before the system can be installed and the well on the property be abandoned. Ms. Epstein made a motion to modify her original motion to grant a variance to the setback to the property line with the condition that an alternative domestic water supply is established and the well on the adjacent property be used only for irrigation. Frank Preskar noted that the first motion for a setback to the property line was denied by the Board. Susan changed her second modification to the original motion to include an alternative domestic water supply to be established for the neighbor and the well be abandoned. Ms. Lowell noted that the variance granted in July is still an acceptable alternative to today's variance. There being no second to the motion, the motion failed.

Kelly Parsley made a motion to deny the variance request for a new wastewater treatment system less than 10 feet from the western property line since there is another viable alternative. Mayor Strainer seconded the motion. Kent Kultgen and Anne Weber abstained from voting. The motion passed 5-0.

Discuss and consider Adoption of the Draft Soil Regulation within the Institutional Controls Plan for the East Helena Superfund Site. The Board will vote to adopt, amend or table the Regulations: Kathy Moore stated that at this time there was no new information to add to the continuation of the draft Soil Regulation within the Institutional Controls Plan for the East Helena Superfund Site. Kathy noted that staff had not had the opportunity to respond to the comments made by the Environmental Protection Agency (EPA) nor incorporate the responses into the draft regulation. Kathy will have the comments and draft report available for the board to review by the next scheduled board meeting. Kathy requested that the Board postpone a decision on the regulations until the Board has had time to review the draft regulation during a work session. Susan Epstein made a motion to table the adoption of the Draft Soil Regulation within the Institutional Controls Plan for the East Helena Superfund Site until the February 28 board meeting. Mayor Strainer seconded the motion. The motion passed 7-0.

The Board will set a time and date for a board work session to review and discuss the proposed changes by staff and the county attorney's office to the Draft Soil Regulation within the Institutional Controls Plan for the East Helena Superfund Site: The Board agreed to have a work session to address the EPA comments to the Draft Soil Regulation within the Institutional Controls Plan for the East Helena Superfund Site and to address any public comments to the soil regulations. The work session will be on February 13 at 5 p.m. in room 226 of the City-County Building. Staff will send the Board the location of the work session by e-mail and will send the EPA comments for the Board to review prior to the work session.

## **MINUTES**

Mr. Wallace asked if there were any corrections or additions to the December 20, 2012, minutes. He noted that minutes had been changed to reflect that Anne Weber was not at the December 20 meeting. Mr. Wallace found an error to the minutes in the fourth paragraph from the bottom on page 27 of the Board packet. He noted that the minutes should read that the Department has not granted a variance for a treatment field less than 100 feet from a neighboring well. The Board approved the minutes with the amendments.

## **BOARD MEMBER DISCUSSION**

Finance Reports: Norman Rostocki, Finance Coordinator, referenced the FY13 comparison to budget and cash flow for July 2012 through December 2012 on page 33 of the board packet. Mr. Rostocki noted that the Department is 50% of the way through its fiscal year. Total revenue to date is \$843,460, or 51% of

the amount budgeted; actual expenditures are \$847,592, or 50% of the amount budgeted. Revenues are under expenditures by \$4,131; total ending cash is \$600,312.

Legislative Update: Ms. Reynolds will e-mail a full, written legislative update to the Board before the next scheduled Board meeting. She noted that some of the proposed bills involving public health and safety relate to cottage foods, septic maintenance, community decay, and immunizations.

HEAT Update: Ms. Reynolds stated that she and Will Snider of the Cooperative Health Center (CHC) hosted a Health Emergency Advisory Team (HEAT) meeting on January 17, 2013. Members of the HEAT discussed the increasing number of flu cases in the community and how to coordinate messaging on flu activity. Ms. Reynolds also noted that RSV cases in the community had risen for the third consecutive week.

### **HEALTH OFFICER REPORT**

St. Peter's Hospital has hired Nate Olson as its new president and CEO. Ms. Reynolds has asked Mr. Olson to meet with the Board of Health in February.

Ms. Reynolds presented a memo from the City of Helena Subdivision Regulation Revision Process to the Board of Health (see Attachment "A"). Karen Lane, Prevention Programs Manager, stated that the City of Helena is considering revisions to its subdivision regulations. The City of Helena is working with the Health Department to include active transportation components in new infrastructures in their revised regulations. The City Commission will hear the second reading of the draft regulations and make its final decision on February 11, 2013. Staff will draft a letter of recommendation on behalf of the Board regarding the health implications of active transportation. Kelly Parsley volunteered to present the letter of recommendation at the February 11 hearing.

### **BOARD MEMBER DISCUSSION** *continued*

Update on Community Health Improvement Plan (CHIP) Process: Gayle Shirley, Communications Coordinator, stated that the second CHIP meeting was held on January 22, 2013. About 30 members of the community attended to discuss and prioritize the 12 health-related focus areas that it believes are of high importance to local residents (see Attachment "B"). The next CHIP meeting will be in February to discuss goals and objectives within each focus area and how to make measurable progress toward those goals and objectives over time.

There being no public comment, the meeting adjourned at 3:37 p.m.

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Ken Wallace, Chair

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Melanie Reynolds, Secretary

Action Items from January 24, BOH Meeting

- Staff will send the Board the location of the work session by e-mail and will send the EPA comments for the Board to review prior to the work session.
- Melanie will e-mail a full written legislative update to the board before the next scheduled board meeting.
- Staff will draft a letter of recommendation on behalf of the Board regarding the health implications around active transportation. Kelly Parsley volunteered to present the letter of recommendation at the February 11 hearing.