

**LEWIS AND CLARK CITY-COUNTY
BOARD OF HEALTH – MINUTES
1930 9th AVE, HELENA, MONTANA 59601
Zoom Meeting, 1:00 p.m.
August 18, 2022**

Members Present

Justin Murgel, chair
Commissioner Jim McCormick
Mayor Kelly Harris
Lisa Kaufman
Katherine Weber

Members Absent

Dr. Mikael Bedell, vice chair
Mayor Wilmot Collins
Rex Weltz
Brie MacLaurin

Staff Present

Drenda Niemann Jay Plant
Jolene Helgersen
Kathy Moore
Laurel Riek
Franchesca Talbot
Beth Norberg
Damian Boudreau

Guests Present

Lucas Canney, Variance Applicant
Cindy Brooks, METG

Justin Murgel, chair, called the meeting to order at 1:00 p.m. A quorum was established.

REVIEW OF AGENDA

No changes were made. No public comment was given.

MINUTES

Mr. Murgel asked if there were any corrections or additions to the July 22, 2022, minutes. There being none, the Board approved the minutes as written. No public comment was given.

INTRODUCTIONS

Drenda Niemann, Health Officer announced that Jay Plant received the Quarterly Employee Recognition award.

ACTION ITEMS

Variance Request, Lucas and Janie Canney Variance:

Beth Norberg, Lewis and Clark City-County registered sanitarian, stated that Lucas and Janie Canney of 3680 Floweree Drive, Helena, MT, are requesting two variance. One to Section 4.3 (5) of the 2020 Lewis & Clark On-Site Waste Treatment Regulations. The applicant is requesting a variance to a wastewater treatment system that must be located to maximize the vertical separation distance from the bottom of the absorption trench to the seasonally high groundwater level, bedrock, or other limiting layer, but under no circumstances may this vertical separation be less than four feet of natural soil. The other variance to Montana Department of Environmental Quality (MDEQ) Circular DEQ-4, Section 2.2.4: Fill systems may be used only for replacement of existing failed systems and may not be used for new subsurface wastewater treatment systems.

Lucas Canney, Variance applicant, said that he and his wife recently sold their home and immediately purchased the property on Floweree Drive. During the purchasing, Mr. Canney chose the parcel that had

highest and driest area to build a home. After the purchase was complete, Mr. Canney proceeded to build their home. Groundwater monitoring was conducted on the parcel in spring and summer of 2022 which all 4 monitoring wells peaked at less than 4 feet of groundwater. Mr. Canney stated that he realized that groundwater monitoring should have been completed before construction began. Mr. Canney stated that he is asking for the variance to be able to finish the completion of his home and with the property being at 40 acres there is less environmental impact than there would be if it was a 10 to 15 acre lot.

Ms. Norberg highlighted the staff report (on pages 11-14 of the board packet) along with staff recommendation and conditions.

In answer to questions from Commissioner McCormick, Ms. Norberg explained the difference in topographical lines in Exhibit I (Ex. I) showing groundwater movement and Exhibit G (Ex. G) Floweree parcels and wells. Ms. Norberg also stated that well data in Ex. G peaks in June and July when the canals in the area are turned on. The area is influenced largely by irrigation than it is during winter.

In answer to a question from Commissioner McCormick, Ms. Norberg explained the State of Montana Administrative Rules regarding local variances that can be granted by a local City-County Board of Health along with Montana Department of Environmental Quality (MDEQ) Circular 4 requirements and local regulations regarding variances.

In answer to questions from Lisa Kaufman, Ms. Norberg stated there will be more than four feet of soil before the elevated sand mound is installed. The only difference is that the four feet of soil will not be naturally occurring soil. Ms. Norberg also stated that modeling depends on the soils which can be seen more in gravelly soils. Modeling was noted at 52 inches at its peak in July but was receding when checked again in August.

In answer to the question from Kathy Moore, Environmental Services Division Administrator, regarding undue hardship, Mr. Canney stated that if this variance was not approved the undue hardship to him would be that he would not be able to complete the building of their home which is halfway through construction and would therefore be homeless.

There being no public comment or further board member discussion, Ms. Kaufman made a motion to approve the variance request with the recommended conditions made by staff. Mayor Kelly Harris seconded the motion. There being no public comment, the motion carried 5-0.

BOARD MEMBER DISCUSSION

East Helena Superfund update and next steps: Ms. Moore introduced guest speakers Cindy Brooks, Managing Principal of the Montana Environmental Trust Group (METG), Trustee of the Montana Environmental Custodial Trust along with Bridget Williams from the United States Environmental Protection Agency (EPA) who will discuss METG's plans for redevelopment in the East Helena area and has asked Lewis and Clark Public Health to continue its institutional controls work in East Helena while redevelopment occurs. Ms. Brooks gave presentation on the Redevelopment of East Helena Soil Repositories Former Asarco Smelter (see Attachment "A") in which she provided an overview on METG's work as trustees of the Montana Environmental Custodial Trust regarding the former Asarco lands in the state of Montana which includes the Asarco site in East Helena, gave an update on soil repositories, new repositories, institutional controls, and development within the repositories. Ms. Brooks requested of the Board to consider amending the soil ordinance so the two soil repository areas, the west and east field soil repository can be redeveloped.

Mayor Harris noted that the City of East Helena is in support of the changes and requests made by METG.

In answer to a question from Commissioner McCormick, Ms. Brooks stated the cost incurred by the county to amend the institutional controls and to maintain them would be submitted to METG to cover as part of the their responsibility to clean up the East Helena Asarco Smelter site. Ms. Moore went on to further explain how and why the Board of Health adopted the 2013 Soil Ordinance.

Drenda Niemann, Health Officer, along with Ms. Moore provided the next steps which would be to update our East Helena Soils Regulation along with the institutional controls which then would come before the Board for review in October. After board review and time for public comment, the regulations would then be provided to the local governing body to review and approve.

Communications and Marketing Update: Damian Boudreau, Communications Manager, gave a communication and marketing update (on pages 37-46 of the board packet) in which Mr. Boudreau discussed communication with the public, data collected from our communication, and future projects.

No public comment was given.

HEALTH OFFICER REPORT

COVID-19 Update: Ms. Niemann shared the COVID-19 HUB map of current numbers of confirmed, active, weekly new case incidences, weekly case incidences, test positivity rates, wastewater surveillance testing, and vaccine rates for the county. Ms. Niemann also highlighted the Public Health Monkeypox Information Hub page located on the Public Health main webpage.

Interlocal Agreement Update: Ms. Niemann announced that the Interlocal Agreement By-laws are being drafted by the county attorney's office for the governing body's review and approval.

No public comment was given

PUBLIC COMMENT

No public comment was given.

The meeting adjourned at 3:02 p.m.

Justin Murgel, Chair

Drenda Niemann, Secretary