MEMBERS PRESENT:
Jeff Burrows
Roger De Haan
Katie Scholl
Mick Turner

Members Absent:
Wayne Chilcote

STAFF PRESENT:
Chris Taggart, minutes
Angelia Allen, PHN
John Palacio, RCEH
Carol Calderwood, Health Officer

STAFF Absent:
Lyndsay Stover, MTUPP

Guests Present:
Megan Winderk
Jim Cotton
Janene Cotton

The meeting was called to order at 3:00 PM by Chairman Jeff Burrows

I. October 10, 2018 draft minutes
Roger moved to approve the October 10, 2018 minutes as presented. Seconded by Mick.
Public comment on motion: none. Discussion: none. All voted “aye” (4-0).

II. CORRESPONDENCE:
RCEH MDEQ hand out per John.

III. AMENDMENTS TO THE AGENDA:
None.

IV. DEPARTMENT REPORTS:
Health Officer: Dr. Carol Calderwood
Real quiet right now (knock wood).

Public Health Nurse: Angie Allen
Angie introduced new nurse Tiffany. Community health related there has been 2 cases of the flu but they are not counted until the State says so. Her office gave a lot of shots last month 320 and they have held 3 off site flu clinics. Office is pretty slow for diseases and said that will pick up during holidays. Discussion ensued pertaining to PHN educational opportunities (on line module videos) Angie will sign up all BOH members.

RCEH: John Palacio
John handed out stats for last 2 months. The office is behind compared to last year’s numbers. The office will start to see final inspect numbers going up vs permits being issued. The office did survive babies being born by employees within RCEH. He held an interview for a potential sanitarian with secondary interview tomorrow with staff. The office is finishing inspections on licensed establishments for the year and then they are done. Roger to sit in on interviews in the future. Roger will try to make tomorrow.

MDEQ hand out today: MDEQ comment period ends Friday December 05, 2018 regarding the Victor controlled groundwater area for landfill, with potential of possibly lifting those restrictions. Jeff suggested that BOH write a comment letter on this even if the BOH position is benign. The meeting is tonight at Victor school from 5PM to 8PM. Jeff stated it is possible to request a comment submittal extension. Roger will review and send an email to BOH members. Katie asked how this would affect RCEH. John explained undevelopable lots could now possibly be developable.

Tobacco Coordinator Report: Lyndsay Stover
Absent – but report handed out.

V. NEW BUSINESS:
1. Food and Consumer Safety Section 2019- Cooperative Agreement – John P
John said the Agreement is same as last year with the only change pertaining to mileage reimbursement for training purposes.

Mick moved to approve the Food and Consumer Safety Section 2019 Cooperative Agreement as presented. Seconded by Katie. Public comment on motion: none. Discussion: none. All voted “aye” (4-0).

VI. OLD BUSINESS:
1. Grover Complaint/Fine Assessment: Update with possible decision

Present: Megan Winderk
Dan Broder, Civil Counsel

Megan Winderk, Grover Attorney, explained that administration law is a give and take between the public and the governmental entity. She then further explained how fines are assessed. When Garrick Grover came to her, she found a lack of public notice. Under the regulations, fines are defined as misdemeanor or $100 per day. The office is issuing up to $1500 per day. The application states up to $1,500 per day but the applicant has had no prior notice to that fine
potential. Megan then referred to other counties on how fines and regulations are handled or interpreted and offered to answer any questions.

Jeff stated that he is having a hard time with lack of notice issue she mentioned. The applicant signed the application which includes the fine potential in large bold lettering. Meghan said it is not considered legal notice to the public, it is just listed on the application. The Ravalli County regulations do not say $1,500 they say $100. She believes that the interpretation that Ravalli County has taken is ambiguous. It is not normal to regulate the conduct, just the system. Roger explained that Ravalli County does not require building permits for residential. The BOH is trying to help people to determine that properties are system-able. She suggested that Ravalli County have building permit requirements. Katie stated that the other 50 counties were not considered when Megan offered the three counties as a reference. Ravalli County is not on the same wave length as the three examples given. Contractors must have due diligence in each and all counties they work in. Garrick Grover repeated many times that he is a licensed professional contractor and is held at a higher standard as they should definitely know the way and requirements.

Megan said her problem is the single sentence for fines. She thinks that single sentence is open for interpretation. Her interpretation is no septic system shall be connected to a building before the septic permit is issued. The penalties and ambiguity are her issues. Mick asked how we inform the public. Megan said put the requirements and possible fines within the regulations. Dan Browder asked if the fee schedule is included within regulations. John said yes. Dan said he considers that public notice. All would benefit on having things more clear. If BOH can improve the clarity of regulations, they should. His legal opinion is that it is not unlawful the way the regulations are written. This is not a back door to have building permits.

Megan feels there is inconsistencies with what is happening on the ground vs the written regulations. The regulations state “of an occupied structure”. She would argue that a foundation is not considered an occupied structure. Jeff explained that Garrick Grover specifically stated that his intent was a residential structure. Mick referred to regulations which states “before starting construction on a building”. Roger said Ravalli County has been working with the 2010 adopted regulations for years. Megan said there are many people confused by these regulations. Mick said both Mr. Grover SR and Garrick are both experienced contractors and would think they would know the waste water requirements. This should not be a surprise as these are professional people. Megan asked when the $1,500 fine was put in place. John said 1998-1999. Katie explained that people assume that the application is the permit when it is not. She then explained that RCEH has attended the Building Association meetings to offer training on this requirement and Garrick Grover is a member of this Association.

Jeff asked what Megan is after. Megan said her client is looking for a reduced fine.

Jeff explained to Mr. Garrick at the meeting that they, BOH and Mr. Grover, were negotiating the fine amount. There was no threats of not issuing the septic permit. An actual motion to fine for 3 days was made and Mr. Grover pointed out that only 2 days should be fined for. BOH then amended the motion to fine for 2 days and not 3 days.
Megan would argue that the regulations on line are ambiguous. Jeff said he thinks fines are ambiguous but the process and regulations are clear. Katie reiterated that Mr. Grover is a licensed professional and should have done his due diligence and asked any questions prior to applying. Megan said from construction industry standards, most counties septic permits is the actual septic system construction not building. Jeff agreed but said Ravalli County is not like that.

Dan Browder referred to the Regulations, Section 7.1 which pertains to the appeal process, which does not include an appeal to BOH for a fine issued by the BOH. Jeff asked if there is any legal consideration for BOH to reconsidering their decision for the Grover fine assessment. Dan said the regulations do not include this consideration by BOH. He strongly recommended to follow the regulations, especially when a negotiated and decided upon fine amount. Discussion ensued regarding timelines, construction, applying for site visit and septic permit issuance. Dan said a legal do-over is not an option within regulations at this time.

Jeff stated that he has not heard anything today that would change his mind regarding how this fine was assessed and how the process was handled. Roger and Katie agreed. Roger stated that consistency for BOH is very important. Megan said she would argue the fine assessments are not consistent looking through old BOH minutes.

BOH thanked Megan for coming in.

No BOH action taken.

2. Voth Complaint – Update with possible decision

Present:
Jim Cotton
Janene Cotton

John explained that a site visit occurred prior to the October 10, BOH meeting and there are now more RV’S on site. The owner did not receive the certified mail but he did receive the regular mail. A few voice mails have been left with no call being returned. John and Jeff with schedule a site visit and knock on the door. The next step is legal counsel/action.

Mr. Cotton stated that this is the 3rd hearing they have attended. The owner will not answer the door. John Palacio has been excellent to work with but his concern is how much more talk is needed. People involved in the Treece Gulch action plan are getting very impatient. Mr. Voth must be forced to comply with the law. Mr. Cotton explained that he and his wife got sick back in July 2016 and that is when the squatters were brought in to help Voth with his taxes. In the course of time, this July Mr. Voth brought in derelict vehicles, two mobiles and a couple camper vehicles and that is how it is to date. All in neighborhood are very frustrated and would like to see action taken. There is a failing septic system, junk vehicles and community decay. Jeff explained that BOH can issue a compliance issue for the failed system but Ravalli County does not have a community decay ordinance. John explained that Treece Gulch Road is a private road and not a public road. Mr. Cotton is working on a CIZD for this area. He suggested that BOH go to the mortgage company which is located in Billings to make them aware of the failed septic system.
Mr. Cotton explained that Mr. Voth has cleaned up yard some but still there are a number of folks living in campers bootlegging off the house septic system. Roger asked if there was an HOA or covenants. Mr. Cotton said no. They are working towards that. John explained that there were 2 RV’s being lived in and the mobile home bathroom was being used. Rent was being paid. This same situation happened last year and was completed July of 2018. Less than 2 weeks later, the same situation is reoccurring. Mr. Cotton said this is Mr. Voth’s pattern.

Katie moved to have RCEH prepare a final notice letter to Mr. Voth informing him of the deadline to cease action (remove renters) and/or contact RCEH by November 30, 2018, along with any further non-compliance issues occurring in the future will be cause for legal action. Said letter shall be delivered by the Sheriff’s Office and a site visit to be completed by John and Jeff by the next BOH meeting 12/12/18. Seconded by Mick. Public comment on motion: none. Discussion: Katie, Mick, Roger, Jeff and John. All voted “aye” (4-0).

3. Ober complaint – Update with possible decision
John explained that a site evaluation has been completed. Roger further explained what occurred at October 2018 meeting with Mrs. Ober. Jeff explained how the funding situation did not pan out so a system replacement loan was pursued. MOFI in Missoula was contacted and an application was submitted. System is still being used. No new news to date received from Mrs. Ober or MOFI.

BOH consensus: John to check in with Mrs. Ober and schedule a BOH site visit.


BOH made changes made. John to email out BOH and Dan Browder for final draft review. Said final draft will come back to BOH for final review and approval. After that, John will contact various agencies to mail out.

5. Draft Preliminary MOU – Update (Jeff B)

Dan Browder stated that he had a lot of comments and sent new draft to Jeff. New draft will be distributed to BOH.

Continue to December 12, 2018 meeting


All done, remove from agenda.

VII: PUBLIC COMMENT:

None.

VIII. NEXT MEETING:
December 12, 2018 at 3:00 PM

IX. ADJOURNMENT:

Katie moved to adjourn the meeting at 4:31 PM. Seconded by Mick. All voted “aye” (4-0).