BOARD OF HEALTH
MINUTE SUMMARY
May 08, 2019
3:00 PM

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

Members Absent:
None.

STAFF PRESENT:
Chris Taggart, Minutes
Angelia Allen, PHN
John Palacio, RCEH
Neoma Greenfield, PHN
Carol Calderwood, Health Officer
Dan Browder, Civil Counsel
Candice McCollom, RCEH
Kelly Arnold, RCEH

STAFF Absent:
Lyndsay Stover, MTUPP

Guests Present:
Adam Bartels
Russell Hood
Rod Daniel
Denise Edwards
Kandi Rogers
Jim Cotton
Janene Cotton
Cathi Cook
Paul Beck
Tom Stringham
Michelle Calderwood
Skip Chisolm
Conrad Eckerdt

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

I. Approval of meeting minutes:
April 01, 2019 (Special Meeting)
Katie moved to approve the April 01, 2019 special meeting minutes as presented. Seconded by Roger. Public comment on motion: none. Discussion: none. All voted “aye” (5-0).

April 04, 2019 (Special Meeting):
Katie moved to approve the April 04, 2019 special meeting minutes as presented. Seconded by Wayne. Public comment on motion: none. Discussion: none. All voted “aye” (5-0).

April 10, 2019 (Regular Meeting):
Roger moved to approve the April 10, 2019 minutes as corrected (page 3). Seconded by Katie. Public comment on motion: none. Discussion: none. All voted “aye” (5-0).

III. AMENDMENTS TO THE AGENDA:
Place Judy Hoy comments at end of today’s agenda.

IV. DEPARTMENT REPORTS:

Health Officer: Carol Calderwood
Respiratory level illnesses in hospitals are high. Flu season has ended and there has been one case of mumps and one case of pertussis and both are wide spread in Missoula.

Update on Measles in the United States: most cases are along the coastal areas, with a total of 764 cases in the United States this calendar year which is the highest it has been in 25 years. There are 52 cases in New York City. Measles have been documented within 23 states and Pennsylvania was added last week. A man who travelled from New York to Michigan caused 39 cases by contact with him.

Public Health Nurse: Angie Allen
There is one case of mumps and they have been excluded from school for 12-25 days for the incubation period. The Pertussis case in Florence was linked to a Missoula case. The PHN is trying to identify and treat close contacts to prevent future spread. April was a very busy month for PHN. It is just a matter of time before County sees a large outbreak of some kind. Pertussis is across the state with 143 cases in 13 counties. Five have occurred in 12 month olds and younger. PHN distribute skateboard helmets to youngsters to help prevent head injuries. They also held their annual immunization clinic in Missoula. We, Ravalli County, have the highest exclusion rate due to religion reasons. We need to talk about this if we do see a measles issue and how would we handle it.

RCEH: John Palacio
John handed out the monthly stats which included quite a jump in site evaluations in April. The office has continue the ground water monitoring with a number already failing. Two Sanitarians are going to soils training with MDEQ at MSU and the annual junk vehicle meeting in Billings next week. Farmers market has started with lots of temporary food vendors.

RCEH: Candace McCollom
Drought water power point presentation for 2019 GWM season.

Tobacco Coordinator Report: Lyndsay Stover
Lyndsay is absent but provide a report via email. Chris handed out hard copies at BOH meeting.

V. NEW BUSINESS:

1. Public Hearing with possible decision: Appeal of denied connection to existing septic system for 2703 Eastside Highway (J King)

Chris announced the legal ad and dates of publication for this public hearing were Wednesday April 24, 2019 and Wednesday May 01, 2019.

John reviewed the staff report which included Findings of Fact (FOF) and Conclusions of Law (COL). This property had a site evaluation done in 2017 for 3-bedroom home with a raised mound system required, (due to the closeness to a ditch). John King of J&J Excavation was the builder and the installer. John P. gave history presented within staff report. Kelly Arnold contacted the Montana Department of Revenue (MDOR) who stated to Kelly that a duplex was being built, not a 4 bedroom home.

Rod Daniel consultant, along with Denise Edwards, J&J Excavation Administrator were present. The property owner is not present.

Mick asked Rod if he has the authority on the property owners’ behalf to constitute bargaining with the BOH. Rod said he believes John King has been working on the house and John has the owners’ permission to do what needs to be done on the house part. The construction includes storage units on the land as well. Rod explained that he envisioned that the BOH would come up with some sort of an agreement with which then the owners could sign. Rod has nothing in writing giving him permission to represent the owners on this issue. Katie stated she thinks BOH should not be dealing with Rod in lieu of the owners or John King. Rod stated that John P recommended that John King and the owner be present. John King informed Rod that neither the owner or he could be present. Rod called Dan Browder prior to the meeting to ask if he thinks if it is a problem that John King and owner are not present. Dan said to Rod that he could not say whether the BOH would agree.

Mick thinks this issue should be tabled. Roger disagrees.

Roger sees this issue, as when the permit was issued for a 4 bedroom house that was legal, regardless of history of site. As far as the as-built certifications, that is almost a moot issue and is Jake Kammerer (designer/engineer) is at fault. The system appears to be the right size regardless for a single 4-bedroom living unit. John King is a reputable installer and has been for years. The issue is the house was turned into a duplex. We could add a condition that septic pipes are exposed and need to be inspected. John P said between John King and Jake Kammerer, they could go back and inspect once septic is exposed. The issue is a permit was issued for a 4 bedroom living unit and the building is obviously built as a duplex [2 living units]. Mick said the permit issued is not valid and the septic system cannot be used. The permit was mis-issued because of not true information provided. Roger said someone here made a mistake.
Rod explained that his possible solution is to turn the 2 -2 bedroom duplex back into 1-4 bedroom house. Jeff asked Rod to also then provide proof that the mound system is inspected. John P once again stated that this building clearly a duplex as there are two kitchens and an outside entrance to the upstairs.

Denise Edwards explained that she looked at this house as a single family residence and John King built this building to possibly accommodate a family with a special needs child who wants to be independent but needs their space as per regulations and benefits.

John P showed a picture received by RCEH that MDOR sent with 3 electrical meters which also proves that this is a 2 -2 bedroom duplex.

Jeff suggested that a possible solution is change back to one 4 bedroom residence but asked John P for his opinion. John P said it is up to the BOH, if this was simply a mistake great, but if not there are avenues for that. Jeff looking for consensus of the BOH.

BOH consensus: get rid of the duplex and convert to a single family residence.

Rod explained that RCEH issued the permit to replace the previous house which had a separate entrance and two separate living quarters. John King re-built this new house the same.

John P, Department of Revenue conducted a site visit in 2016 and noted that this was a 3-bedroom house. The separate living quarters was information from J&J, and not verified.

Jeff said all those involved: Jake Kammerer, John King and Rod Daniel all have experience with going through this permit process. Rod said if BOH looked at the system and it can be verified that the system was installed properly, that might remedy a wrong.

Mick reiterated that no one even looked at the system before it was covered up. Rod said Jake Kammerer was not called back to perform an inspection. Mick asked then how did Jake send as-builts to RCEH if he never saw the system?

Jeff asked if there are interior stairs. Rod said no but there could be and John King wants to add the interior stairs.

Mick suggested placing a deed restriction.

**BOH recommendation:**
1. Convert back to a Single family four bedroom house;
2. Interior stairs be installed;
3. Change electrical box to be single meter;
4. Remove at least one of the two sets of exterior stairs;
5. Record a deed restriction that this building will not ever be a duplex;
6. The upstairs exit door shall be an exit only door;
7. Provide proof that the septic system has been installed legally; and
8. A significant fine/penalty shall be established.

Rod to take these recommendations back to John King and the owner and will come back to BOH next month. If owners and/or John King cannot be present, Rod shall bring a Power of Attorney (POA) or a letter of approval so that Rod can negotiate with BOH on the owners’ behalf.

Public comment:
Skip Chisolm has been listening and there seems to be deception. He is surprised that BOH did not tabled this in order to verify authority of Rod negotiating on behalf of the owners. Seems like muddy waters.

BOH consensus: Continue to June 12, 2019 BOH month.

2. Review with possible decision on Sweet Pea’s MDEQ application for a land application site in Corvallis.

John gave brief history on this request. Per MDEQ, Sweet Pea needs BOH signature on the application to verify that what Sweet Pea is proposing meets County standards for these sites. MDEQ will not move forward in reviewing this application until signed by BOH representatives. MDEQ will then write up the Environmental Assessment and Ravalli County will then be asked to review the Environmental Assessment and supply MDEQ comments.

Adam Bartels, co-owner of Sweet Pea, explained that MDEQ has been on-site and walked the entire site. The one site where they can dump, per their MDEQ permit, is where the house is located, which is not acceptable.

Roger asked if this is the same site that has been dumped on historically. Adam said yes but some parameters were change due to grades (6% parameters). They intend on going from a square for dumping to now at a rectangle with tighter slopes.

Roger pointed out that on the application, the type of crop says pasture. Adam said there will be cattle grazing, which are moved from site to site based upon when dumping occurs. MDEQ and the landowner work together with regard to timing of dumping and pasturing cows.

Jeff asked about the trash issue. Adam explained that the trash was a winter issue and it is their (Sweet Pea’s) fault. Sweet Pea has recently purchased some screens to help alleviate the trash. This is their first trash complaint received. MDEQ gives the applicator 120 days to clean up the site once complaint is made. Katie asked why get screen and equipment now. Adam said they don’t want any further complaints or trash issues. Screens are becoming more and more popular but they are expensive.

Discussion ensued.

Roger asked about the depth to ground water which says on the application is 1100 feet. Mick explained that his friend lives up there and his well goes very deep, approximately 1000 feet.
Mick moved to approve land application for Sweet pea as presented, contingent upon:

1. RCEH obtaining MDEQ letter stating that Sweet Pea is allowed to be the applicator on the Frost site;
2. That there has not been any illegal activity going on at the Frost site;
3. Other background of last 3 years of dumping on this site by Sweet Pea (status of this site); and
4. Provide legitimate legal description of site (using correct township, section and range).

Seconded by Roger. Public comment on motion: Skip Chisolm said the property should be carefully used for pasturing. Conrad Eckerdt said the site (known as the Frost site) has been closed as he is the one who complained to MDEQ. He came before BOH awhile back and was told that there are only two dump sites permitted within Ravalli County. He has video of what is being dumped and there is no lime being applied and no trash is being picked up. Where is Sweet Pea’s application for the last 3 years? Tom Stringham said if a site visit and walk through occurred, it is kind of hard to validate the actual site for dumping. Conrad called MDEQ to verify and MDEQ said the Frost site is closed. If it is closed, how can, all of a sudden, a little piece of this Frost property be used? A lot has changed from 1996 when the original permit was issued to Frost and Eckerdt. Discussion: Katie asked Adam if he has papers and approvals for the 3 other sites Sweet Pea is using. Adam said no, he is assuming that MDEQ has permissions from the previous Sweet Pea owners. He has all approved permits from 1996 in his records. He purchased the business on good faith that these sites were approved sites and all is ok. They do have all the logs when this site was used. Wayne asked if each dump has a GPS site. Adam said no. Katie asked how often is MDEQ notified on the dumps. Adam said once a month. Katie asked how often these dump permits are renewed. John P. said annually. All voted “aye” (5-0).

JUMP TO OLD BUSINESS
4. CONTINUED REVIEW: Ravalli County DRAFT Subsurface Wastewater Treatment and Disposal Regulations

PUBLIC COMMENT ONLY:
Tom Stringham, representing the BBIA submitted several comments (was received via email):
1.6 C – remove c all together as it is very subjective
1.6 D – asked to revise to change adding or enlarging approved on site employees, customers and/or anything which would increase effluent flow
Definition: occupied buildings - what constitutes a kitchen
Agriculture side of things - occupied building has plumbing (ag buildings: some have hydrants and some stall barns have wash drains) needs to be addressed.
Change the sleeping area to bedrooms
2.3 – remove builders or installers
3.3 – notarized from your clients – difficult to get accomplished (remove notarized requirement)
3.6 – vagueness of other MDEQ Circular 4 outlines, seems subjective – be struck out
3.73 – is subjective asking for survey of area. Some cases on GWM very difficult.
3.74B – change from historic to evidence
3.79 – remove other tracts of record and change 2 years to 1 year
4.67 – clean outs changed from 50’ – change back to 100’
4.91 – change revoke to modify, alter or request a variance
4.10.1 – add inspection time of 48 hours
7.2.2 – remove this section
7.3.3 – review process for every plan will simplify things. Keep section as is.
8.3 – asked to reference the fee schedule.

Paul Beck: Thanked BOH for all their hard work.
Suggested a digital building plan be submitted to RCEH, which are easy and can easily be changed, at the time of septic permit application request.

Skip Chisolm: asked if someone is building without a septic permit, is BOH acting on it? Katie said yes.

Wayne: 7.2.2 change “for” to “form” (page 18)

**BOH consensus:** Continue to June 12, 2019 meeting.

3. Ravalli PHN E7 CDSR Checklist (Neoma)

   **Katie moved to approve the PHN E7 CDSR with the BOH Chairman’s signature, as presented.**
   **Seconded by Mick.** Public comment on motion: none. Discussion: none. **All voted “aye” (5-0).**

4. Truck Wreck Protocol (Neoma)

   **Mick moved to approve the Truck Wreck Protocol with the Chairman’s signature, as presented.**
   **Seconded by Katie.** Public comment on motion: none. Discussion: none. **All voted “aye” (5-0).**

5. SOP Animal Bite (Neoma) – Per Angie Allen, not ready for this yet –

**TABLE SOP until PHN is ready.**

VI. OLD BUSINESS:

1. Burt litigation: Update with Dan Browder

   None: remove from agenda.

2. Voth complaint: Treece Gulch Rd., Hamilton – Update with John P and Dan Browder

   John went out last week and took pictures. He cannot tell if action is being done going in the right direction or in the wrong direction. Picture taken somewhat shows that that water heater is gone and a toilet is outside.

   **Public comment:**
   Jim and Janene Cotton are present to get an update on where we are. John P said that no correspondence has been received from the issued compliance order (delivered via Sheriff).

   Dan Browder said we, Ravalli County, can ask permission to perform a visit the site and see if the property is compliant and if told no, we could go to court.

   Jeff suggested asking for permission first. Mick agrees and if told no, we can show court we tried
Cathi Cook: explained that this property is slated for a Sheriff sale for July 1, 2019. She has approximately $5,000 liens filed on this property for road maintenance issues. Cathi then stated she did not receive the required 120 day notice for this proposed sale and she is working with County Attorney Bill Fulbright and her attorney which may change the date of sale.

**Mick moved to approve that John and Jeff to visit the property, with a Sheriff escort, to request permission to review the site. If no permission is granted, BOH will request court action. Seconded by Katie.** Public comment on motion: Jim Cotton, neighbor, asked if they just wait and see how this pending foreclosure sale goes. Jeff said no fines have been imposed to date. Mr. Cotton then stated that he has assumed that the BOH would just let the foreclosure take place and that would possibly fix things. Dan Browder explained the foreclosure process and then informed the BOH that we could file a lis-pendens. Discussion: Mick and Dan. **All voted “aye” (5-0).**

3. Ober complaint: failed septic system – Update from John P
John said the system should be installed in two weeks.

**BOH consensus: Continue to June 12, 2019 meeting.**

II. CORRESPONDENCE:
Effects of Neonicotinoid Insecticides on Physiology and Reproductive Characteristics of Captive Female and Fawn White-tailed Deer (J Hoy email)

Katie said she does not want to respond due to test being done improperly due to deer not being kept in grazing area. EPA said there are no contaminants in MT

**BOH consensus: Continue to June 12, 2019 meeting.**

VII: PUBLIC COMMENT:
None.

VIII. NEXT MEETING:
Regular meeting June 12, 2019 at 2:00 PM.

IX. ADJOURNMENT:

Wayne moved to adjourn the meeting at 5:20 PM. Seconded by Roger. **All voted “aye” (5-0).**