

Description	Gallatin County Courthouse, Community Room, 311 W Main, Bozeman, MT 59715		
Date	01/23/2014	Location	Board of Health
Time	Speaker	Note	
		<p>Board Members: Robin Cory, Steve Custer, Becky Franks, Tracy Knoedler, Berk Knighton, Gretchen Rupp, Joe Skinner, Buck Taylor, Carson Taylor Deputy County Attorney: Erin Arnold Staff: Sean Hill, Matt Kelley, Shane Lewis, Toni Lucker, Tom Moore, Tim Roark, Jill Steeley,</p> <p><i>These log notes provide only a part of the official record. The remainder of the official record is in the audio recording of the meeting. Section 2-3-212 MCA. The audio recording is available upon request.</i></p>	
7:02:47 AM		Meeting Called to Order	
7:03:00 AM		Audio Disclaimer	
7:03:29 AM		Public Comment	
7:03:39 AM		Welcome New Board Member - Tracy Knoedler	
7:05:15 AM		Consent Agenda	
7:05:35 AM		Public Comment regarding the consent agenda	
7:05:49 AM	Motion	Steve made a motion to accept the consent agenda.	
7:05:54 AM	Second	Carson	
7:06:01 AM	Vote	<p>Roll Call: Steve - yes Becky - yes Tracy - yes Berk - yes Gretchen - yes Joe - yes Buck - yes Carson - yes</p> <p>The motion passed unanimously</p>	
7:06:04 AM		Regular Agenda	
7:06:11 AM		Robin Cory arrived	
7:06:21 AM		Discussion and Decision regarding H. Lindvig Enforcement Action and Approval of Civil Action	
7:07:37 AM	Berk Knighton	Berk disclosed his conflict of interest relative to this case and recused self from participation.	
7:08:50 AM		Matt presented an overview of the case where basically there has been no progress on Mr. Lindvig submitting a plan of correction for the unpermitted status of the wastewater treatment system.	
7:10:56 AM	Erin Arnold	Deputy County Attorney made herself available to answer any questions by the Board regarding this case. Today the Board decides whether to approve a civil action: a complaint for declaratory judgment and injunctive relief to be in compliance with the regulations, by obtaining a permit. This may also require a	

		variance due to high groundwater.
7:11:43 AM	Tim Roark	Environmental Health Director, provided technical information and discussed the high groundwater in the area.
7:13:20 AM	Matt Kelley	As Health Officer, Matt noted his concern about this area, which is known for high groundwater. He reminded the Board of the last variance heard was for the property next to the Lindvig property. That owner went to significant expense to propose and install an elevated sandmound to deal with the issue of high groundwater.
7:14:05 AM	Buck Taylor	Buck asked Tim where the effluent was currently going. Into a system of unknown quality, dependability and an unknown treatment mechanism.
7:14:23 AM	Steve Custer	Steve asked for clarification about the irrigation ditch. asked if someone was living there or just running a business? Tim clarified that the business owner lives there with his family and runs a landscaping and snow removal business with a shop on the property.
7:15:16 AM	Carson Taylor	Commissioner Carson is struck by the health officer order: Option 1 - written explanation regarding efforts to sell the property. It could take years to sell the property. This does not get one very far.
7:16:06 AM		Matt noted this is a segment of an on-going conversation with Mr. Lindvig. The health department is asking for a plan of correction on how Mr. Lindvig will bring this residence into compliance.
7:16:25 AM	Erin Arnold	Deputy County Attorney explained to the Board that Mr. Lindvig's initial response to the order for a plan of correction was that he did not have to comply because he was in process of selling house. Erin would like additional information about where is he at in that process before the Board approves litigation. However, whether or not he provides information on the sale does not affect the Board proceeding with a civil action.
7:17:30 AM	Carson Taylor	The Board is authorizing civil action no matter what and leaving it to the discretion of the health officer as to when to file it based upon what happens with options 1 and 2.
7:18:11 AM		Matt clarified that the intention is to get a plan of correction.
7:18:23 AM	Joe Skinner	Commissioner Skinner asked Erin, if Mr. Lindvig sells the property, must he disclose the problem to the new owner? Correct and they would have to take care of the problem.
7:18:38 AM	Gretchen Rupp	Gretchen asked how does the disclosure take place and to what degree is it binding? Erin explained as part of the buy-sale agreement but her concern is from the litigation aspect. If he sold the property after the Board filed the suit against him, the Board would have to ensure the current landowner would be pursued through the civil action. Also, Mr. Lindvig indicated that once he sold the property, the mobile home that is currently connected to the unpermitted septic tank would be removed. Erin would want information on that as well.
7:19:47 AM	Buck Taylor	Buck asked Erin what happens after the February 3rd deadline if he does not comply? Erin advised that if the board approves, she would file the civil action in district court.
7:20:23 AM		Public Comment on this issue
7:20:41 AM	Tom Moore	Tom made a point of clarification: Of the three homes that Mr. Lindvig has on his property, the third home's system, that is not permitted, was installed after the permitting process began in 1966, making it an illegal system.

7:21:47 AM		Board Deliberation
7:21:56 AM	Buck Taylor	Buck noted that the home owner had ample opportunity to come into compliance with the regulations and is in favor of moving forward with the action as described.
7:22:32 AM	Steve Custer	Steve concurs
7:22:38 AM	Carson Taylor	Carson thinks the board should go ahead with the civil action. There are options in advance of a civil suit. He is comfortable with giving the landowner an opportunity to work this out and comfortable moving to authorize civil action.
7:23:36 AM	Motion	Carson made a motion to authorize the Health Officer to commence legal action regarding the Lindvig property on Fowler Avenue, as such time he sees fit after February 3, 2014 at his discretion.
7:23:56 AM	Second	Buck seconded the motion
7:24:07 AM	Carson Taylor	Carson added that the Board is authorizing Matt to move forward and has the discretion to make the decision based on either a plan of correction or an understanding that the property will be sold and the new owner will be responsible for it.
7:24:31 AM	Becky Franks	Becky agrees with the discussion and to move forward with this action. She expressed the selling of the property could be long and believes the issue needs to be addressed in a more timely manner.
7:25:08 AM	Buck Taylor	Buck asked Erin if it would be within the legal realm that if the Health Officer receives notification when the property is sold, that we could send an informational letter to the new property owner regarding this information to ensure compliance.
7:26:01 AM	Vote	Roll Call: Becky - yes Joe - yes Steve - yes Buck - yes Carson - yes Gretchen - yes Tracy - yes Robin - yes Berk - abstained The motion passed.
7:26:32 AM	Motion	Buck made a motion for the Board to direct the Health Officer upon information given to him that the property is sold, he writes an informational letter regarding this situation to the new buyer.
7:26:52 AM	Second	Joe seconded the motion
7:26:57 AM	Carson Taylor	Carson sees this as moving it forward. This sets the matter up because we have non-compliant and non-permitted system.
7:27:36 AM	Matt Kelley	The Health Officer requested clarification from the Deputy Attorney that the new owner inherits the civil action. Erin responded that the new owner inherits the obligation to have a permitted system. Matt added he would work with the new owner and disclose the situation in the event the new owner did not know.
7:28:06 AM	Vote	
7:28:30 AM	Buck	Buck asked Tim who installed the unpermitted system? Tim had no idea

	Taylor	
7:28:43 AM	Robin Cory	Robin asked if a letter is sent to the new buyer and information was not disclosed, is the Board liable? Erin responded that Mr. Lindvig would be liable for non-disclosure.
7:29:06 AM		Discussion and Decision regarding Granting Health Officer Authority to Enter a Compliance Agreement with B. Naegeli and Squarehead Properties
7:29:25 AM	Matt Kelley	Matt provided an overview of the situation to the Board: There is willingness expressed by the owner to enter into a plan of correction to hook her two systems to a public system run by Hebgen Lake Estates. There are no septic permits for either system on this property. The health department is asking the Board to authorize the Health Officer to agree to a plan of correction with Ms. Naegeli and Squarehead Properties.
7:31:50 AM	Erin Arnold	Erin referred the Board to a sample compliance agreement. A compliance agreement Board authorization would provide the Health Officer with authority to enter into a compliance agreement. The Board would also provide Matt with authority to establish deadlines for Ms. Naegeli and Squarehead Properties to abandon the unpermitted holding tanks on the property and connect to the water district. Erin added confirmation from the water district to allow Ms. Naegeli to connect has been received.
7:33:13 AM	Gretchen Rupp	Q: Gretchen asked why a compliance agreement is necessary if there is positive indication from the owners? A: Erin responded that having a legal binding obligation with Ms. Naegeli is necessary because Ms. Naegeli has not been bound to previous agreements. If she fails to be bound to this, civil action could be taken.
7:34:16 AM	Carson Taylor	Q: If a compliance agreement is entered into and it is not complied with, will the Health Officer have to come back to the Board for authorization to sue on the compliance agreement? A: Erin responded "correct".
7:34:29 AM		Q: Suing on the compliance agreement is easier and less costly than suing on the facts as they currently are? A. Correct!
7:34:51 AM	Robin Cory	Q: If they do hook up to the water district system, what will happen to tanks? A: Erin responded that the tanks will be abandoned pursuant to Section 15.3 and the local health code.
7:35:16 AM	Tim Roark	Tim discussed the abandonment requirement. The local health code instructs how to properly abandon septic tanks - by crushing in place or filling with sand. The compliance agreement would include complying with this code.
7:36:07 AM	Robin Cory	Q: Has the well, in close proximity to the Naegeli property, been tested? A: Yes is a public well and is tested on a regular basis as a requirement by state regulations. Tim continued that he knows of no contamination hits.
7:36:36 AM		Public Comment - none
7:36:44 AM	Motion	Buck made a motion to grant the Health Officer the authority to enter into a compliance agreement with the Naegeli family and Squarehead Properties pursuant to the discussion today.

7:37:01 AM	Second	Steve seconded the motion
7:37:10 AM	Vote	<p>Roll Call:</p> <p>Becky - yes Joe - yes Steve - yes Buck - yes Carson - yes Gretchen - yes Tracy - yes Robin - yes Berk – yes abstained</p> <p>The motion passed.</p>
7:37:47 AM		Tim added that he misspoke regarding who installed the system on the Lindvig property. What has been told to staff by Mr. Lindvig is that the system was installed in 1968 by Bob Brown or Herman Walter and the tank replaced 12 years ago. Note the map in the Board packet.
7:38:43 AM		Election of New Vice-Chair
7:39:13 AM	Motion	Becky nominated Buck Taylor as vice- chair
7:39:32 AM	Second	Joe seconded the nomination
7:39:51 AM		Buck happy to serve.
7:40:17 AM	Vote	<p>term until July 2014</p> <p>Roll Call:</p> <p>Becky - yes Joe - yes Steve - yes Buck - yes Carson - yes Gretchen - yes Tracy - yes Robin - yes Berk – abstained yes</p> <p>The motion passed.</p>
7:40:47 AM		Subcommittee Reports
7:40:54 AM		Environmental Health Subcommittee: Minutes in the packet reflect what has been going on.
7:41:31 AM		Updating the health code is the priority.
7:41:37 AM		Prevention Alliance: active in Community Health Improvement Plan
7:41:52 AM		Health Officer Report
7:42:03 AM		Matt noted the enforcement action against Korner Klub - case dismissed due to new septic system. success story!
7:42:40 AM		6-mo finance report with no sig issues to report.
7:42:55 AM		Matt thanked Board members who showed up Tuesday for the Community Health

		Improvement Plan (CHIP) meeting. Over 60 people showed up to discuss the plan. good meeting, good turn out.
7:43:38 AM		Communicable Disease: Flu with us. Being seen nationally and in Montana is a strain of flu - H1N1 that is hitting people the hardest. The younger people especially. Hospitalization. Health Officer urged all to get a flu shot.
7:45:10 AM		Matt Invited Board members to the work session where the board will get a refresher and introduction to septic systems and wastewater treatment system technology.
7:46:09 AM		Tim introduced the Board to the newest sanitarian - Shane Lewis
7:46:54 AM		Meeting adjourned

Secretary

Date

Chair

Date