

Description		
Date	01/22/2009	Location
		Board of Health
Time	Speaker	Note
6:49:31 AM		<i>Board Members Present</i> : Eric Bryson, Robin Cory, Laura Larsson, Brian Leland, Bill Murdock, Gretchen Rupp, Barbara Vaughn <i>Excused Members</i> : Berk Knighton, Buck Taylor <i>Deputy County Attorney</i> : Chris Gray <i>Staff</i> : Toni Lucker, Stephanie Nelson, Tim Roark <i>Public</i> : Mark Fasting, Kelsy Broadway
7:01:55 AM		Meeting called to Order
7:02:05 AM		Disclaimer for Audio Broadcasting
7:02:21 AM		Public Comment on a Non-Agenda Item - none
7:02:33 AM		Consent Agenda
7:02:47 AM		Corrections were made to the December 18, 2008 Board of Health public record - Page 4, Berk's last name was spelled correctly; and on Pages 3 & 4, on the vote to recommend appointments, the roll call was corrected for Robin and Eric.
7:04:40 AM		Brian requested to move the MSU Sub-award item from the consent agenda to the regular agenda.
7:04:59 AM	Motion	Laura made a motion to accept the consent agenda with the corrections to the minutes and excluding the MSU Sub-award contract.
7:05:13 AM	Second	Bill seconded the motion.
7:05:16 AM	Vote	The motion passed unanimously. <u>Roll Call</u> : Eric Bryson - yes Robin Cory - yes Laura Larsson - yes Brian Leland - yes Bill Murdock - yes Gretchen Rupp - yes Barbara Vaughn - yes
7:05:31 AM		Regular agenda
7:05:34 AM		MSU Sub-award - NAPA Grant Brian asked to see the written approval from DPHHS as it relates to Section 9A of the contract. Stephanie will obtain the documentation and include it with the contract for Barbara's signature.
7:08:14 AM	Motion	Bill made a motion to approve the contract subject to the documentation being included.
7:08:20 AM	Second	Eric seconded the motion.
7:08:32 AM	vote	The motion passed unanimously.

		<p><u>Roll Call</u> :</p> <p>Eric Bryson - yes Robin Cory - yes Laura Larsson - yes Brian Leland - yes Bill Murdock - yes Gretchen Rupp - yes Barbara Vaughn - yes</p>
7:08:42 AM		CSH Properties Variance Requests #2008.010, #2008.011, continued
7:08:59 AM		Tim presented a summary of the two variance requests and noted the continuance from last month due to a different site plan being proposed. The variance requests were noticed in the January 11th & 21st edition of the Bozeman Chronicle.
7:10:39 AM		Tim discussed the site plan of the new proposed location for the elevated sandmound. The site evaluation identified an area that was outside of the designated 100-year floodplain but does not meet the required 100-foot setback; hence, variance request #2008.010. The septic tank and pump locations are now proposed outside of the floodplain but a trench through the floodplain is necessary; hence, a floodplain permit is required.
7:12:53 AM		Board discussion and clarifications about the number of bedrooms, the location of the septic system components inside and outside of the floodplain, and adding the previously agreed upon condition to all variances regarding system installation according to the manufacturer's approved method.
7:21:56 AM	Mark Fasting, Allied Engineering	Concurred with all EHS recommendations.
7:22:27 AM		The Board asked Mark for clarification about the engineer's responsibility to inspect and ensure the correct installation of a system. Mark discussed the requirement of the engineer to certify the installation.
7:23:24 AM		The Board questioned Mark about the need for two variance requests even with the site move. Mark confirmed that the wastewater system cannot meet the 100-foot setback even with the site move.
7:24:23 AM		Brian wants the official record to be accurate and reflect that variance request #2008.010 - to construct a septic system within the Madison River floodplain - be modified or struck as this is not correct.
7:25:53 AM		Tim discussed with the Board that the transport piping and service connections are part of the septic system and do transverse the floodplain. Therefore this is an accurate statement. Board discussion.
7:26:47 AM		Mark added that the septic system is not in the floodplain but a variance is requested because the 100-foot setback from a floodplain regulation is not met.

7:28:06 AM		The Board asked Chris, Deputy County Attorney, for guidance on how to resolve this issue of what is considered the wastewater treatment system and is it necessary to note what part of the system is inside and outside of the floodplain.
7:28:31 AM	Chris Gray, Deputy County Attorney	Chris advised the Board that whoever makes the motion needs to address the specifics as they have come up today.
7:28:57 AM	Motion	Bill made a motion to approve the first variance to ARM 17.36.918(1) Table 1, the minimum horizontal setback distance from the absorption system to a floodplain is 100 feet.
7:29:16 AM	Second	Eric seconded the motion
7:29:21 AM		Bill continued that based on the discussion and some confusion about whether or not the piping carrying the untreated sewage to the drainfield is in or not in the 100-foot setback, the setback is part of the floodplain regulation. Bill added that the purpose of public health and safety with floodplain regulations is to have a setback of that distance because some variations in the floodplain boundaries could change a little. In the interest of safety, the 100-foot setback is reasonable to expect. With piping containing raw sewage, it is possible that in a 100-year event, that piping could crack or break violating the protection of public health. A variance from the regulation is required.
7:31:06 AM	Findings	<p>The Board finds that:</p> <p>Pursuant to GCCRWTS Variance Procedure Section B(1), the property owner clearly demonstrated that all alternatives not requiring a variance have been explored; and</p> <p>Pursuant to GCCRWTS Variance Procedure Section B(2), the property owner did not propose an experimental system; and</p> <p>Pursuant to GCCRWTS Variance Procedure Section D(1)(a) the system that would be allowed by the variance is unlikely to cause pollution of state waters in violation of 75-5-605 MCA; and</p> <p>Pursuant to GCCRWTS Variance Procedure Section D(1)(b)(i), the granting of the variance will protect the quality and potability of water for public water supplies and domestic uses, and will protect the quality of water for other beneficial uses, including those specified in 76-4-101, MCA; and</p> <p>Pursuant to GCCRWTS Variance Procedure Section D(1)(b)(ii), the granting of the variance will not adversely affect public health, safety, and welfare; and</p> <p>Pursuant to GCCRWTS Variance Procedure Section D(1)(c), the variance will not conflict with the requirements of ARM 17.36.914; and</p>

		<p>Pursuant to GCCRWTS Variance Procedure Section D(2)(a)(i), the property owner did prove that special circumstances exist where strict compliance with GCCHD regulations will result in unnecessary hardship that is peculiar to the property owner's property or situation; and</p> <p>Pursuant to GCCRWTS Variance Procedure Section D(2)(a)(ii), the property owner did prove that special circumstances exist where strict compliance with GCCHD regulations will result in unnecessary hardship that is not caused by the property owner's action or inaction; and</p> <p>Pursuant to GCCRWTS Variance Procedure Section D(2)(b), the property owner did prove that the variance does not conflict with the purpose of GCCHD regulations.</p>
7:33:48 AM		Bill continued that the findings were based on the staff report, the exhibits on pages 50, 51 and the testimony received by Marc Fasting. He made the findings set forth on page 39, numbered 1 - 10.
7:34:21 AM		Eric agrees with the findings explained in the discussion and is ready to vote in favor of the motion.
7:34:37 AM		Brian discussed that because the regulations are specific that it is the absorption system that needs the variance to the 100-foot setback requirement, he would like to see the non-bold text of 2008.010 struck from the application.
7:35:50 AM		Chris advised that at this time the Board has a motion, a second, findings have been made, Brian has made his point and the Board can now call for more findings and discussion on the matter and then can vote.
7:36:07 AM		Brian wants to add #11 to the recommendations: <i>The system shall be installed using the manufacturer's approved methods .</i>
7:36:27 AM	Amended motion	Bill amended the motion to include recommendation #11.
7:36:29 AM	Second	Eric agreed to the amended motion.
7:36:45 AM		Board discussion on the affect, if any, of adding recommendation #11 on the Department. It is the engineer's obligation to assure recommendation #11 is satisfied.
7:38:30 AM	#2 Amended motion	Bill amended the motion again to include - subject to the conditions.
7:38:37 AM	Second	Eric agreed to this #2 amended motion.
7:38:49 AM		Brian discussed the reason for adding the recommendation.
7:40:17 AM	Vote	<p>The motion passed.</p> <p>Roll Call : Eric Bryson - yes Robin Cory - yes Laura Larsson - yes Brian Leland - no</p>

		Bill Murdock - yes Gretchen Rupp - yes Barbara Vaughn - yes
7:42:34 AM	Motion	Bill made a motion to approve variance request #2008.011 to construct a septic system drainfield where seasonal high groundwater is estimated to be within 31-inches of ground surface, ARM 17.36.914, subject to conditions presented by staff and includes condition 11.
7:43:27 AM	Second	Eric seconded the motion.
7:43:46 AM		Brian discussed with the Board his concern with the 3-bedroom house and expanding the system to allow a 4-bedroom house. That would be putting more people in harms way when it comes to the floodplain and that is not in the interest of public health. That is the reason for his no vote.
7:44:37 AM		Tim discussed that there is no significant difference in the system size or capacity in order to accommodate a 2-, 3- or 4-bedroom structure.
7:45:52 AM	Findings	Eric noted that given the testimony in the last hearing and the applicant's testimony today and with the staff responses to questions from the Board, he supports the motion based on the conclusions outlined in the staff report and he agrees with the findings 1-10 listed and therefore will support the motion.
7:46:14 AM	Vote	The motion passed. <u>Roll Call :</u> Eric Bryson - yes Robin Cory - yes Laura Larsson - yes Brian Leland - no Bill Murdock - yes Gretchen Rupp - yes Barbara Vaughn - yes
7:47:13 AM		Committee Charters
7:49:40 AM		Stephanie researched the committee structure of some larger health departments. The charters give the Board a process to provide direction to the committees who are working in an advisory capacity to the Board of Health. The draft charters are the same for each committee but with the specific committee work plan included as part of the charters. The Water/Wastewater Committee continues to work on the work plan.
7:51:42 AM		Separate from the charters is the draft communication policy for the Board.
7:52:20 AM		The Prevention Alliance and the Air Quality committees have been working on editorials: The Prevention Alliance has three, finalized editorials that are ready for Board approval to be submitted to the papers. The Air Quality committee has three, finalized editorials and two pending editorials.
7:53:12 AM		Chris advised the Board that staff is an agent of the Board of Health and

		are subject to the policies set by the Board. The committees of the Board are also agents of this Board. The Board creates the boundaries, ground rules or mini-bylaws for the agents for the purposes of moving forward the needs and wants of the Board as a whole.
7:54:57 AM		The Board asked Chris if a vote is needed from the Board to approve on the committee charters individually or in bulk. Chris advised to vote on each one individually. The Board also asked if a vote from the Board is needed for the Communication Policy. But this is a separate issue.
7:55:28 AM		Regarding the Committee Charters, Eric suggested that the third bullet item under Responsibilities be stricken from all charters for the following reason: He wants to setup subcommittees responsible directly to the Board of Health and make no reference to their responsibility outside of reporting any information directly back to the Board of Health. If a structure of subcommittees is to be setup, it should be that direct communications go to and from subcommittee to the Board of Health.
7:56:26 AM		Board discussion followed.
7:57:47 AM		Laura supports that comment.
7:58:14 AM		Bill agrees with Eric's point. Technically, the committees make recommendations to the full Board and everything should come back to the Board.
7:59:09 AM		Stephanie asked about the role of the Health Department. Eric pointed out that the Board would direct staff time to be dedicated to subcommittee work, not the subcommittee.
8:00:15 AM		Brian asked about minority opinions under the Ground Rules section of the charter. Is there an opportunity to communicate a dissenting opinion? Eric noted the voting record that notes every minority opinion. Brian expressed his concern about dissenting opinions and feels it is not healthy to censor a differing opinion. He also has concern about the language used in the charters about complete consensus.
8:02:28 AM		Board discussion followed about how to handle dissenting opinions other than how it is currently handled in the public record.
8:03:05 AM		Bill added that there is no muzzle on anybody in a minority opinion - as an individual can express dissent to the media - but cannot speak for the Board.
8:03:58 AM		Chris advised this is in the communication policy. A record of dissenting opinions could be made at the Board of Health meeting forum.
8:05:05 AM		Brian discussed with the Board his concerns about his wood stove editorial approval status.
8:07:23 AM		Laura added this could be worked out in the Air Quality subcommittee.
8:07:52 AM	Motion	Laura made a motion to approve the committee charter for the water/wastewater committee, for the air quality subcommittee and the Prevention Alliance subcommittee without bullet #3.
8:08:23 AM	Second	Eric seconded the motion.

8:09:07 AM		Brian wants to include into the initiatives and outcomes of the work plan the Board of Health to make an editorial statement to encourage Logan to join the Gallatin Local Water Quality District.
8:10:21 AM		Board discussion about does the charter include the work plan elements. The water/wastewater committee needs more time to work on the work plan. The Charter will stand for years and the work plan will be continuously revised.
8:10:44 AM		Chris advised that his observation of the motion, a three-part motion (pages 53, 55 and 66), includes striking of bullet #3 under Responsibilities, the Board is adopting authority to each subcommittee. Now, the work plan is a separate issue for each subcommittee. It is referenced, but not specifically referenced as part of the motion at this time.
8:11:41 AM		The Board asked Chris if a vote was needed on each work plan today. Chris advised the meeting was not noticed for the purpose of approving the work plans.
8:12:10 AM		Chris advised the Board to get back to the charters as a motion has been made and seconded.
8:12:33 AM	Vote	The motion passed unanimously. <u>Roll Call :</u> Laura - yes Brian - yes Gretchen - yes Eric - yes Bill - yes Barbara - yes Robin - yes
8:13:37 AM		Board discussion on the continuously updated work plans.
8:14:13 AM		Stephanie added that after the retreat, the initiatives were worked on. The initiatives and work plan for air quality and Prevention Alliance have been completed and their recommendations have been set forth in this work plan for Board approval. Wastewater continues to work on the work plan.
8:14:47 AM		The Logan issue could be discussed at a future wastewater committee meeting.
8:15:31 AM		Barbara asked if the subcommittee could meet first then bring it before the Board at the next Board meeting. Stephanie asked the Board if the work plans for the Prevention Alliance and Air Quality meet with the Board's approval.
8:16:23 AM		Chris advised that from the open meeting standpoint, the meeting has not been noticed for approval of the work plans. Could be considered for approval at the next meeting.
8:17:23 AM		The work plans and editorials can be discussed today, as the agenda indicates, and be approved next month. As noticed today, the Board has

		the ability to adopt the communication policy however; the editorials would have to be put off one more month. Discussion followed.
8:20:17 AM		BOH Communication Policy
8:21:31 AM		Barbara presented the communication policy. She discussed the issue of having consistency in statements as the Board of Health to the media. The policy allows individual Board members initiating communications on matters related to public health in their individual capacity - not speaking as the Board of Health.
8:22:50 AM		Brian asked to modify the policy - part d: designate the Health Officer to speak on matters of public health importance.
8:24:24 AM		Chris advised to include a separate sentence into the policy: <i>The Health Officer is designated to speak on matters of public health importance.</i>
8:25:11 AM		Board discussion.
8:31:30 AM		Chris suggested 'Individual Board members may publish communications on matters related to public health only in their individual capacity.' Publish in the legal sense is not only writing but also communicating verbally.
8:32:22 AM		Calling and asking about data is not taking a position in the public.
8:33:32 AM		Brian stated he spoke with the mayor of Belgrade about his opinion on forming a county-wide air quality district. The net outcome was an invitation from the Mayor to the air quality subcommittee to give a presentation to the Belgrade city council and Berk's opinion on the formation of an air quality district.
8:35:27 AM		Board discussed this.
8:35:47 AM	Motion	Laura made a motion that the communication policy be adopted without item d and with the final sentence of the last paragraph to read 'individual Board members may take a position on matters related to public health only in their individual capacity. When acting without Board approval, individual members may not take a position unless only acting as themselves'.
8:37:17 AM	Second	Bill seconded the motion.
8:38:14 AM		Board discussion on re-wording the sentence to match the intent.
8:39:01 AM		Board discussion on individual communications as an individual.
8:41:39 AM	Amended Motion	Laura amended the motion and instead of the revisions to the last sentence of the final paragraph, strike the last sentence of the final paragraph.
8:41:41 AM	Second	Bill agreed with the amended motion.
8:42:26 AM		Chris repeated the motion: The motion to adopt the Gallatin City-County Board of Health Policy Communication with the Public, Media and Other Entities, modifying section d to read, 'the Health Officer is designated to speak on matters of public health importance', and eliminating the last sentence.

8:42:32 AM		Chris advised the Board that when signing as an individual, make no reference to one's role on the Board, sign as an individual. If someone signed and referenced their seat on the Board, that would be in violation of the policy, if this policy is adopted.
8:43:30 AM	Vote	<p><u>Roll Call</u> :</p> <p>Laura - yes Brian - yes Gretchen - yes Eric - yes Bill - yes Barbara - yes Robin - yes</p> <p>The motion passed unanimously.</p>
8:44:06 AM		<p><i>Guest Editorial Draft Procedure</i></p> <p>Steph asked for a short discussion on the procedure that lists how the Board works through the editorials.</p>
8:46:07 AM		Board discussion on how dissenting opinions are recorded. Brian's editorials will be discussed at the next air quality sub-committee meeting. The majority rules and the committee will make a recommendation to the Board, who will make the final approval of editorials.
8:51:35 AM	Motion	Bill made a motion to approve the guest editorials draft procedure as written.
8:51:41 AM	Second	Eric seconded the motion.
8:51:53 AM	vote	<p><u>Roll Call</u> :</p> <p>Laura - yes Brian - no Gretchen - yes Eric - yes Bill - yes Barbara - yes Robin - yes</p> <p>The motion passed.</p>
8:52:32 AM		MSU Students Gallatin Valley Air Quality Final Report
8:52:36 AM	Kelsy Broadway	Stephanie introduced Kelsy, who presented the final report on the Gallatin Valley Air Quality project.
9:05:30 AM		Bill had to leave
9:06:13 AM		<p>BOH Work Plan and Committee Updates</p> <p><i>Draft Editorials & Non-Idling Resolution</i></p> <p>Stephanie discussed agenda items - the work plans, editorials and the non-idling resolution - that were not appropriately noticed to get Board approval so those items would be re-noticed as such for the February meeting. To move forward before February, a special meeting could be held if the Board requested it.</p>

9:07:49 AM		Board discussion on status of the editorials and committee work plans.
9:12:05 AM		Board discussion on whether to hold a special meeting to address these issues. Eric prefers to have the editorials completed in a special meeting and sees no rush in having the work plans adopted before the February Board meeting. The Board agrees so Stephanie will schedule a special Board meeting.
9:12:55 AM		<u>Legislative Session</u> : Stephanie briefly discussed the legislation session as a FYI since this was not noticed. Stephanie will distribute regular updates from the Association of Montana Public Health Officials.
9:15:20 AM		Brian asked about the fee increases that were put on hold. Looking to see how they can be integrated into the Health Code changes. Also, the review of the health codes has been removed from subcommittee work. The Health Code will be discussed at a later time.
9:17:39 AM		Board discussion on how to ensure the Board has the authority to charge fees for various services.
9:19:09 AM		Meeting adjourned.