

**BOARD OF HEALTH  
MINUTE SUMMARY**

August 09, 2016, 2016

3:00 PM

**MEMBERS PRESENT:**

Jeff Burrows  
Michael Turner  
Katherine Scholl  
Dr. Wayne Chilcote

**Members Absent:**

Roger De Haan

**STAFF PRESENT:**

LuAnn Burgmuller, PHN  
Carol Calderwood, MD, HO  
Chris Taggart, Minutes  
Rod Daniel, RCEH

**Staff Absent:**

John Palacio, RCEH  
Neoma Greenfield, PHN

**Guests Present:**

Rachel Parkin  
Tim Burt  
Elaine Burt  
Joyce Burr

The Meeting was called to Order: 3:03 pm by Chairman Burrows.

I. June 08, 2016 draft minutes:

Wayne pointed out his last name was spelled incorrectly.

**Katie made a motion to approve the June 08, 2016 minutes as corrected. Seconded by Mick.**

Public comment on motion: none. Discussion: none. **All voted "aye" (4-0).**

**II. CORRESPONDENCE:**

None.

**III. DEPARTMENT REPORTS:**

Health Officer: Carol Calderwood

Carol stated that there might be a peak in sinus and respiratory issues, possibly due to fires but summer has been a busy time and it could be tourists. There have been a few pneumonia cases as well. A lot of hospital visits.

Public Health Nurse: LuAnn Burgmuller

LuAnn referred to the office stats. Emergency Preparedness has been busy since the fire started. She has worked very closely with Erik Hoover OEM as a stand by. There has been several meetings with Red Cross and Salvation Army. Social media has helped tremendously. The donation center is at the old Marilyn's Restaurant near Albertsons. Her goal is to add links to the County website under the fire tab. She is to contact Chris. This weekend will be an information center meeting and public health, along with other agencies, will be there to hand out information. Katie asked who is helping those who lost their homes. LuAnn said this weekend's meeting is exactly to help those people. Wayne said the Red Cross will post the homes which were destroyed which are primary residences in the very near future. Red Cross liaison Steve Davis keeps in touch with public health, Sheriff's and Fire departments.

The Zika virus is increasing. Montana has received \$200,000 from CDC but no funds have made their way to Ravalli County yet. There has been one Zika case in Missoula County so far.

RCEH: Rod Daniel in lieu of John Palacio

Handed out stats for July. Permits are up 15% from this time last year and site visits are up 23%. The office is very short staffed and things are piling up. The office just put together an information sheet pertaining to wells affected by the fires. The office has also been busy keeping tabs on food vendors. Mick asked about ground water monitoring being down. Rod said he thinks that the ground water monitoring sites have mostly been completed. Katie asked about certification of folks for the fair. Rod said yes lots of training is and has been going on.

IV. OLD BUSINESS:

1. Long Avenue – continued

Rachel Parkin, Attorney for Tim and Elaine Burt thanked the BOH for their patience. Her clients are very interested in resolving things and bring the property into compliance. She feels that there has been lots of miss-communications. There was never any raw sewage in front of home, it was laundry excess due to the sump not being hooked up.

In terms of compliance letter sent out:

1. Permanently convert duplex to SFR: The Burt's purchased this building in that duplex Setting, they did not convert the building. The upstairs is somewhat like a mother in laws quarters. Jeff stated that the details on this have already been hashed out. He does not understand why we are discussing this duplex. Rachel said the compliance letter states that the plumbing upstairs needs to be removed. The Burt's are willing to go through whatever they need to, to get the modified system permitted. Katie said the Burt's agreed to remove one of the trailers or shut down the garage apartment. Katie then said the Burt's also agreed to remove one of the trailers. To date, that has not been done. Tim Burt stated he has a hold over tenant whose lease just came up. The County RCEH has his check for the modified permit request and he has not received an approval or denial for a septic system modification so that he can remove trailer and connect the garage apartment. Rachel said the removal of the second trailer is not necessary and the Burt's do not recall agreeing to remove the trailer, just disconnect it from the system. Rachel read state law pertaining to a trailer court. The Burt's are not renting trailer spaces out. They own the trailers. Dan Browder said the State's position is that these two trailers are a

trailer court. Discussion ensued between Rachel and Dan regarding the letter which included the reference made to the State's determination of a trailer court.

Rachel said her clients propose to pursue a septic permit which allows for the disconnect of the second trailer and allow hook up for the garage apartment, thus keeping the second trailer as storage only.

Katie said the BOH has sat through several meetings with the Burt's and discussed all of this. The upstairs apartment in the two story home would include the removal of certain things, and the only way they could use the garage apartment was per the removal of the second north trailer. It seems we are going backwards. The BOH has waited for these things to be done and they have not been done. Jeff said he doesn't know if the second northern trailer was disconnected, that that would be enough to satisfy the BOH. Rachel said she has not seen an agreement of any kind. Mr. Burt said he has not heard of anything from the RCEH. His concern is if he evicts the tenants in the second trailer, and then his modified permit application is denied.

Dan Browder said the septic system was installed illegally. The BOH had previously agreed to push the date out due to current trailer lease with renters. The legal questions of litigation were put aside due to a verbal agreement at a BOH meeting. In terms of BOH actions, there is a legal basis. Now the BOH needs to decide if they want to go to court or the Burt's can comply with BOH. Mick said we had an agreement and now the Burt's want to change it. They are still not in compliance with the law. The fines are still accumulating day by day. Rachel suggested that the Burt's and the BOH reach an agreement and place something in writing today. Katie asked what if there is another attorney in five months. Rachel suggested that is why having a written agreement completed today would rectify things. Rod said when the two story house was permitted in 1997, it was for one, two bedroom house with the caveat stating no additional bedrooms can be added until a trailer is removed. Rachel said in 1997 the property had the same building configurations. Rod said the permit is good for two bedrooms only. Rachel said the other issue is the septic is sized for a 3 bedroom. Rod said the tank size is sufficient but the drain field is not. Rachel said her clients would increase the size of the drain field. Rod said they tried to run a non-deg test without a water sample being provide and with the information they had, RCEH determined that they would not pass to increase the size of the drain field. Rachel said the Burt's could request a variance. Mr. Burt said the garage is hooked up but has been vacant for over one year. Katie said the second trailer cannot be connected because that is a trailer court. Rachel said Mr. Burt will disconnect the trailer but wants to keep it on property for storage. Rod said he is not sure if the trailer was disconnected if it could stay unhooked or how that pans out. He would assume if it was unhooked it would be ok but he does not know if a conversation with the State was had on that or not. Dan Browder read the statue pertaining to occupancy and sewer usage. Mick referred to November 04, 2015 meeting minutes. Rachel said those minutes refer to another 5 acre property nearby that the Burt's own. Mr. Burt said there are no trailers on that other property.

A five minute break was requested by the Burt's and Rachel.

Jeff asked Rod to refresh his memory.

Rod explained:

2 story house permitted for two bedrooms only.

1 garage apartment

2 trailers, each one having a permitted septic permit.

The garage was illegally connected to one of the trailer septic systems.

State law requires more than one trailer requires a trailer court permit.

Dan Browder doubts that this situation would qualify for an approved variance. Jeff asked if the one trailer was disconnected and removed, if that would solve problem. Rod said yes and that would remove the requirement for a licensed trailer court and then the garage apartment could use the removed trailer septic system legally.

Mrs. Burt said she does not really want to remove the second northern trailer. Rachel said there are tenants in the north trailer as hold overs and the Burt's can talk with the tenants to leave, disconnect the trailer and it will only be used as storage. Katie said that RCEH cannot issue a permit for the illegal trailer system/garage apartment until the trailer is disconnected. Rod said RCEH could issue the modified permit with an effective date and upon that effective date the north trailer would be disconnected. Jeff asked why this reasonable solution was not discussed earlier. Mr. Burt did not know the BOH existed until last October 2015. They never got invited or notified until John Palacio contacted them and said they should attend. Jeff said since then, there have been multiple invitations offered. Mr. Burt said they did have a tough time obtaining an attorney. Katie said at any time the Burt's could have come before the BOH with a proposal.

Rachel explained that the Burt's could move the tenants of the north trailer out, have them move into the garage apartment, unhook the north trailer with an inspection by RCEH, and allow the trailer to remain as storage only. She did inform the BOH that she along with the Burt's intended on attending the July 2016 BOH meeting but the meeting was cancelled. The Burt's are not trying to be difficult. Jeff spoke about the fine assessment and that accumulation from April 7, 2016, equates to 120 days of approximately \$24,000. Jeff said the July meeting was cancelled so July to August should not be considered but prior to that, not so much. Rachel stated that she had been communicating with Dan Browder via email and that she requested several meetings or special meetings. Dan said the assessment stated that if the trailer was not removed, that the potential fines could go back quite a ways back. Rachel asked what the BOH wants specifically. Dan suggested if the trailer remains there as storage, that the trailer be gutted and be made unsuitable for anything else other than storage for assurance (no bedrooms and plumbing). Wayne suggested pulling the kitchen fixtures, bathroom fixtures and all pipes and disconnected from any flow in and flow out. Rachel said with the removal of the walls, it may affect the structural integrity of the building. Mick suggested giving a week deadline for the trailer to be gutted, and fines will continue and the permit will have an effective date. Wayne said gutting should include removal of kitchen sink, all bathroom sinks, toilets and shower facilities and all undercarriage piping be removed. Rachel said we should talk about fines. First of all, what range of fines is the BOH looking at assessing? Mick said the Burt's are not in compliance and

have not been for 17 months. That is why we have regulations and penalties. It is not like the regulations came out yesterday. Rachel said the property was inspected when the second trailer was permitted and nothing of concern was brought up then. We dispute that they are out of compliance, we do not want to litigate and do want to trying to remedy this. Katie explained the history which included two families living in the two story home, one family living in the garage apartment illegally connected to one of the trailer septic systems, and one family living in each trailer which was illegal. Jeff asked how much in penalties would the Burt's offer?

Rachel requested an additional 5 minute break to speak with client.

Dan mentioned having an agreement signed and filed such as a deed agreement listing all requirements. Dan suggested that one option is to have the kitchen be removed in second story of the home and include inspections and include fines if found to be reconnected. Rachel said the Burt's will offer \$4,000 on the assessed fines. Mick asked to hear the whole offer

Rachel said:

1. Moving the tenants out of north trailer into garage apartment.
2. Disconnect and gut the north trailer (disconnect all kitchen and bathroom fixtures and piping) and include inspections be allowed at any time. It will not be rented or occupied.
3. The duplex (existing 2 story home) move forward with the modified permitting process and only have one family living there.
4. They would like to retain the proper professionals to apply and process a request for a modified permit to change from a permitted two bedroom system to a three bedroom system for the two story home
5. Pay the \$4,000 in settlement of the assessed fines.
6. All to be done as quickly as possible, by next BOH meeting September 14, 2016.

BOH reply:

1. \$4,000 is not acceptable. Mick suggested due to the July 2016 meeting being cancelled, the fine assessment should be for the time period of April 7, 2016 through July 7, 2016, which would be 13 weeks and equates to \$18,200. Rachel said the fines could be equated at any amount and that the BOH could lower the rate from \$200/day to a lower amount. Katie explained the BOH history and has felt the BOH had established an agreement on what would be done and then it was ignored and ignored and attorneys were changed and excuse after excuse. Dan pointed out in fairness that setting aside the two trailers and house, all the rents have been collected for some years. Jeff thinks \$18,200 is steep. Mick said the renting has been going on illegally for some time and the Burt's have been making rental money on all this. Katie thinks nothing less than \$10,000 should be accepted. Mr. Burt said he never felt there was a negotiating atmosphere offered by RCEH or BOH or that they had any options. Mrs. Burt feels there was a lack of communication. Mr. Burt said their second attorney advised the Burt's to not attend the BOH meetings. Jeff suggested \$8,400 (going from date which Rachel contacted Jeff which is May 18, 2016 (April 7, 2016 through May 18, 2016). Mick said he suggested

\$12,000. Wayne suggested going with Jeff's breakdown and \$8,400. Katie agrees with Jeff as well at \$8,400.

Consensus of BOH:

1. Preliminary fine assessment at \$8,400.
2. Move tenants from north trailer to garage apartment (or other) by next BOH meeting (with potential 30 day eviction notice having to be given immediately)
3. Gutting of north trailer: disconnect from septic, disconnect from water, pull all water fixtures (toilets, sinks, showers), pull all appliances and allow for an inspection at any time by RECH without notice.
4. North trailer can never be used in the future for habitation.
5. The existing two story home will only be allowed to be used as an SFR. Rod explained process required when someone calls to increase the number of bedrooms.

Dan again suggested having all in an agreement which should be recorded:

1. Burt's would rent house as SFR and only use 2 bedrooms. Rachel asked what is meant by SFR. Dan said the bedrooms are the critical point. The third "room" is not to be used as a bedroom. County inspections can occur with a 24 hour notice be given by owner. Roommates would be considered a single household
2. North trailer: will only be used for storage and not connected to any plumbing. Can also be inspected but without any notice.
3. Agreement could only be amended in writing and signed by both parties and re-recorded.
4. Grantor = Burt's Grantee = BOH
5. If violations occur, County will enforce fines.

Rachel is not comfortable with listing potential future fines within agreement. Dan said the agreement could be written in various sections to cover all.

Mick suggested that there needs to be language stating it should all be completed by next BOH meeting September 14, 2016 and if not, also include language for violations.

Rachel suggested having two agreements so to speak. She has a hard time with recording a document on a settlement agreement we don't know the terms of. Have the agreement attached to the settlement agreement and both be recorded. Dan will draft the agreement. BOH can designate that the BOH chair sign. Dan will email out draft to BOH members but no discussion via email can occur.

Rachel requested another 5 minute break to confer with her clients.

Rachel:

1. The Burt's are fine with all, except fines.

2. The Burt's will offer \$6,200 due to not having cash on hand. Rents are barely covering the mortgage payment. They would prefer to make payments and offered to pay \$3,100 at the September 2016 BOH meeting and \$3,100 at the October 2016 BOH meeting.

Jeff said the BOH is not in favor of \$6,200 but is open to a payment plan. Rachel said the \$6,200 hurts the Burt's really bad and they would appreciate a payment plan. The Burt's are not wealthy and do not have extra to offer. Katie reminded the Burt's if this issue goes to litigation and the costs associated with that process.

Jeff asked the Burt's if they would consider the \$8,400 fine assessment with \$4,000 up front and then monthly payments. Mrs. Burt said she would pay \$6,200 by getting a loan. Rachel said litigation would be required for the fine assessment if it cannot be agreed upon. Consensus of BOH: no to \$6,200. Jeff, Wayne and Katie would accept \$8,400, Mick said no.

Rachel requested another 5 minute break.

Rachel said the Burt's are willing to pay the \$8,400 fine but request it be made in payments: \$400/month for 21 months. Discussion ensued. Rachel said the Burt's want this behind them. Jeff said 21 months is dragging out too long. Wants to see it wrapped up by June 30, 2017. Payment would be \$763.00/month. Jeff explained that once the final agreement is solidified, all involved are probably looking at October 2016 so from October 2016 thru June 2017, being paid off no later than June 30, 2017 equates to 9 installments of \$933.33 paid monthly and paid in full by June 01, 2017, beginning payment would be due October 01, 2016.

Final Agreement between BOH, Rachel and the Burt's:

1. Nine installments of \$933.33 paid monthly and paid in full by June 01, 2017, beginning payment would be due October 01, 2016. An early payoff would be allowed without any penalty.
2. The two story home shall be rented as a single family residence with 2 bedrooms.
3. The County shall be allowed to inspect during business hours with a 24 hour notice being given.
4. The Northern trailer shall be used only for storage disconnect from septic, disconnect from water, pull all water fixtures (toilets, sinks, showers), pull all appliances and allow for an inspection at any time by RECH without notice.
5. The Recorded agreement can be only be amended, in writing by agreement of both parties, and any amendment will be recorded.
6. The Burt's shall have the north trailer tenants out and issue termination of lease (8/10/16)
7. Tenants will be allowed to move into the garage apartment and the Burt's will work with RCEH to get garage apartment properly permitted.

Payments will be mailed to and payable to the Ravalli County Treasure. Chris to provide documentation to Dan Whitesitt. Jeff will request a monthly email from Dan Whitesitt confirming each monthly payment has been made.

**Wayne moved to have Dan Browder draft the agreement as listed above and authorize Jeff to sign on behalf of BOH. Seconded by Katie.** Public comment on motion: none. Discussion: none. **Katie, Jeff and Wayne voted “aye”; Mick voted “nay”, motion passed 3-1.**

2. 293 Luby Lane – update

Mrs. Burr said John Palacio came out and inspected and all is in compliance. Things are not pretty yet but everything is in compliance. Jeff will have John prepare a final report for the next BOH meeting.

3. Non-Pharmaceutical Intervention (Previously named Isolation and Quarantine Control Measures) \*\*\*Need Signature: Neoma  
**TABLE TO NEXT MEETING.**

4. Presentation of Pandemic Response Plan: Neoma  
**TABLE TO NEXT MEETING.**

V. NEW BUSINESS:

1. Yearly Grant – required checklist

- a. Transport Plan Checklist \*\*\* Need Signature: Neoma

**COMPLETED.**

- b. Communicable Diseases Reporting Checklist \*\*\* Need Signature:  
Neoma

**COMPLETED.**

- c. Truck Wreck Protocol - Neoma

**TABLE TO NEXT MEETING.**

VI. Public comment

None.

VII. Next Meeting: September 14, 2016 at 3:00 PM

VIII. Adjournment:

**Mick made a motion to adjourn the meeting at 5:52 PM. Katie seconded the motion. All voted “aye”. (4-0)**