

Summit County Board of Health Meeting Minutes

Summit County Health Dept. Conference Room
650 Round Valley Drive
Park City, Utah 84060

Monday, November 4, 2019

Topic	Discussion	Action or Summary
Attendance	<p>Board Members Present: Ilyssa Golding - Chair, Chris Ure, Doug Evans, Marc Watterson, Kim Carson (arrived late), Heidi Jaeger, Regrets- Dorothy Adams</p> <p>Staff Present: Dr. Richard Bullough – Director, Dr. Phil Bondurant, Shelley Worley, Aaron Newman, Lisa Yoder, Alyssa Mitchell, Nate Brooks, Derek Siddoway, Paige Mitchell, Katy Staley</p>	
Welcome and approval of minutes	<p>The meeting was called to order at 4:00 p.m. Board Member Jaeger made a motion to open the meeting. Board Member Ure seconded the motion.</p> <ul style="list-style-type: none"> • Board Member Ure made a motion to approve the minutes for the September 9, 2019 Board of Health Meeting as written. Board Member Jaeger seconded the motion. Motion passed 5-0. 	<p>Summary:</p> <ul style="list-style-type: none"> • <i>The minutes for the September 9, 2019 Board of Health meeting were approved as written.</i>
Public Comment	<ul style="list-style-type: none"> • No general public comment was made. 	<p>Summary:</p> <ul style="list-style-type: none"> • <i>No general public comment was made.</i>
Director's Report	<ul style="list-style-type: none"> • Dr. Bullough shared that the budget is as expected, was presented to County Council last week and was well-received. Behavioral Health is moving into the Health Department general budget. • The Health Department is fully staffed minus one Environmental Health position. Responsibilities are being divided between Dr. Bullough and Dr. Bondurant. • There are two positions that were formerly with Valley Behavioral Health that are being bought in-house. The Behavioral Health Prevention Programs Director and the Behavioral Health Prevention Programs Coordinator will report to Aaron Newman. • The transition to Healthy U Behavioral is going well. There are now over 70 providers in the network. 	<p>Summary:</p> <ul style="list-style-type: none"> • <i>The budget was presented to the County Council and was well-received.</i> • <i>The Health Department is fully staffed minus one position.</i> • <i>Two positions for Behavioral Health were brought in-house.</i> • <i>Healthy U Behavioral now has 70 providers in the network.</i>
E-Cig Update	<ul style="list-style-type: none"> • Alyssa Mitchell shared that the Utah Department of Health enforced an emergency rule to restrict the sales of flavored vaping products temporarily to try to address the growing concern of vaping related illnesses. A small group of shop owners requested a temporary restraining order be put in place to prevent the rule from being fully enforced. The restraining order was granted on October 28th. The only enforcement being implemented right now is ensuring that any store that sells a vaping product must have a warning sign that shares the risks of vaping THC products. This rule will be in effect until November 22nd. Regular compliance checks will still be conducted to ensure that youth are not able to access any type of tobacco product in any shops in the county. After November 22nd both parties (Utah Department of Health and retailers) will be able to make their cases for or against the emergency rule. All retailers are currently in compliance with the warning sign requirement. • Board Member Watterson stated the shop owner argument is that the emergency rule is arbitrary and capricious because specific retailers were singled out. The judge sided with the retailers because the Department of Health did not show enough evidence that restrictions were needed for only certain stores. The Utah Department of Health is now going through the regular rule making process instead of the emergency rule process. The hope is to make a more permanent rule and the regular rule process should appease some of the judge's concerns. There are six related bills so far that are being proposed for the regular legislative session. The process could take months. • Board Member Watterson shared that there have been consequences for the South Summit students that were caught vaping. Those students 	<p>Summary:</p> <ul style="list-style-type: none"> • <i>The Utah Department of Health implemented an emergency rule to restrict the sales of flavored vaping products. This rule has a temporary restraining order. Any store that sells vaping products must display a sign that shares the risks of vaping THC.</i> • <i>There are several bills that will be proposed during the regular legislative session that will address the vaping concerns.</i> • <i>Alyssa and her team are working with the schools to implement education programs for youth and parents in relation to vaping.</i>

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	<p>were kicked off the football team or suspended. Alyssa and her team are approaching the schools in the County to discuss ways of better educating the youth, with several programs being promoted. Many of the schools are wanting to support these programs. Education for parents is also being provided.</p>	
<p>Budget Discussion</p>	<ul style="list-style-type: none"> • Dr. Bullough shared the budget proposal with the Board. The budget has already gone through the budget committee and has been presented to the County Manager and the County Council. The County Council will have their public budget hearings on December 4th and 11th. The focus for the Health Department is to reduce disparities, advance healthy lifestyles, protect our environments and safeguard families and communities. All Health Department services support our community. The Health Department has several programs available for the community. Behavioral Health is transitioning to a network model with Healthy U Behavioral. A summary of accomplishments of Health Department programs was shared. Revenue sources for the Health Department include Federal grants, County contributions, State grants, fees, and non-County contributions. • The budget is not asking for any new full-time employees, only two part-time interns. There is a big increase in the budget with the Behavioral Health programs that were previously run through Valley Behavioral. A significant portion of the budget is through Medicaid. The funds will now be utilized in a more effective way. • Fees will be evaluated, including concurrency fees as per the three-year cycle. Fees are assessed to ensure the work being done is paid for. • Behavioral Health is the majority of the overall budget. For the first time in the history of the County there are counselors in every school. Aaron Newman stated the County is seeing the reward already for having behavioral health services in the schools. There is more support from the community and more family engagement. • The budget request is for about an additional \$70,000 from the County, partly due to the requirements for Medicaid match. To offset the additional request from the County, the general health budget, environmental health budget and public health emergency response are being reduced. The sustainability budget has gone up. Revenues are increasing at the same rate as expenditures. 	<p><i>Summary:</i></p> <ul style="list-style-type: none"> • <i>The budget proposal was shared and discussed. County Council public budget hearings will be held on December 4th and 11th.</i> • <i>Fees will be reevaluated.</i> • <i>Behavioral Health is transitioning to a different network approach to providing services and is a significant portion of the budget.</i> • <i>The increase in the budget for Behavioral Health is being offset by reductions in the budget in other areas.</i>
<p>Source Protection Discussion, Including Public Input</p>	<ul style="list-style-type: none"> • Dr. Bullough welcomed the public for the source protection discussion. A decision will not be made tonight. There will be an opportunity for written public comment. There has been a lot of concern about the proposed ordinance. All input will be considered through this process. Public input during this meeting was encouraged. • Dr. Bondurant stated there have been many requests stating there is a need for a source protection ordinance in Summit County. As the headwaters of the State, water source protection serves a number of people. There is a concurrency ordinance that requires public water systems to report that there is enough water to fulfill agreements and condition letters that have been issued. In exchange, the public water systems have asked for protection of the water sources. • The source protection rule is the first approach to try to meet the needs of source protection. This ordinance is not intended to be a land grab or to subvert the process, but to try to be as transparent as possible. This is the way local governments should work by being represented by the water systems, the general public, the Board of Health, and Health Department Staff. Staff has worked with many people to devise this rule. This is just a first draft. Fire, police, septic and sewer, and several other impacts are considered for development, but not what development does to ground water. Ground water is where it all starts and should be considered in the development process. This rule connects to the State rule for water source 	<p><i>Summary:</i></p> <ul style="list-style-type: none"> • <i>Dr. Bondurant shared an overview of the proposed source protection ordinance including specifics of the source protection zones.</i>

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	<p>protection. The Health Department staff are advocates for the private landowner, the public water systems, the State, the Division of Drinking Water, and the Farm Bureau in trying to find a solution to protect ground water. Something has probably been missed in the proposed ordinance or something may be included that should not be included. This process is to receive feedback with an interactive discussion. This will be an ongoing collaborative process.</p> <ul style="list-style-type: none"> • The biggest concern that has already been received is with Zones 3 and 4 which have been in State rule since 1996. Dr. Bondurant explained the zones associated with the public water system. When a public water system appoints a well, they are required to create a source protection plan. As part of this plan, there are four zones that must be delineated. Zone 1 is the hundred-foot radius from the well that must be protected as the most sensitive area. Zone 2 is the next zone out and is the next most sensitive area for source protection. Zone 3 is the next zone out and can be very large. Zone 4 is the last zone. Zones 3 and 4 will sometimes overlap. A map was shown of the source protection zones already in existence in Summit County. Many are already in place and will be applied during the review process for development. Notification will be given to the water company located in their zone for them to be involved in the development discussion. Zone 3 talks about agricultural operations and discussion is required. Agricultural operations are not prohibited in Zone 3, but source protection will be included in the process for any new agricultural operation. The water company will have a say in what processes need to be implemented to protect the ground water. Nothing is being limited through this proposed ordinance, but any new development, including agricultural operation will be subject to a review process. Zones 1 through 3 are usually owned by a water company. The rule would not limit running cattle on Zone 4, but the water company will still be notified. The only limits on zone 4 are described and include any hazmat, landfills or hazardous waste dump sites. Zone 1 will never intersect more than one parcel. • Staff is looking to initiate an internal process. An application is made and assigned to a Planner. The Planner will identify who is affected and review the application. As part of the review process if a source protection zone is identified as part of the development then the water company is included in the service provider review process and allows the water company to provide feedback. The feedback will be included in the Planning Commission review. The rule is not for current operations but only for development moving forward. The County is accountable for notification. This rule brings control and oversight to the local level and includes the water company into the discussion. There are similar ordinances in 17 of the 29 counties in Utah. • Chair Golding asked if mitigation is required, who would be financially responsible. Dr. Bondurant answered that the decision would be between the water company and the developer, with the State DEQ (Department of Environmental Quality) as a mediator if required. There is an appeal process through the Planning Commission and possibly onto the Board of Health. <p>Board Member Evans asked if another ordinance will be required through the County to affect changes to Planning and Zoning regulations. Dr. Bondurant answered that the ordinance is part of the service provider input that is presented to the Planning Commission and does not make changes to the Planning Code. A small water system will lean heavily on the source protection plan. Rural water companies and the State DEQ will determine what is allowed based on the source protection zones.</p> <p>Board Member Ure stated he does not like the language and it seems like an attack on agriculture. Different wording should be used. One concern is</p>	

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	<p>with perc tests allowing septic systems in the source protection zones. Nate Brooks stated that having septic systems in a source protection zone will include working with the water company and may require an alternative system. Dr. Bondurant stated that some counties do not allow Zone 2 septic systems. This ordinance would have the water company work with the applicant to determine if other mitigations are required. Board Member Ure stated that most landowners cannot afford to buy enough ground to provide a well in a subdivision in a Zone 2. Dr. Bullough stated that the Health Department is sensitive to protecting water and health while being progressive in adopting new technologies to provide options to allow construction on different types of development sites. The intent is not to stop development.</p>	
	<p>PUBLIC HEARING</p>	
	<ul style="list-style-type: none"> • Sterling Brown with the Utah Farm Bureau asked if the proposed ordinance has jurisdiction or authority on public land. Bill Laughlin stated the public water system would know about new uses in Zone 4 and would be able to provide input. The ordinance does not limit any existing land uses, so livestock grazing is not prohibited in any of the zones. Zones 1 and 2 will be protected. Sterling Brown clarified that the Forest Service or any public entity must follow the same process as a private landowner. An example would be if a new campground was put in then the water system would be notified. A rancher may develop a new water source on public land, so is that mobile water source defined as a well? Bill Laughlin answered that this rule is only applicable to a public drinking water source. Irrigation companies would not be included for the same reason. Dr. Bondurant stated he will include wording to clarify that irrigation companies are not included. Definitions are given to clarify what a public water source is. Sterling Brown asked what assurance is given to the landowner that mitigations required are not over the top. Language should be included to state that requirements should be “reasonable.” Dr. Bondurant answered that the Division of Drinking Water could be engaged to mitigate if the requirements seem severe. Dr. Bullough stated that ultimate authority does need to be formalized. Bill Laughlin shared an example showing that this ordinance is much less restrictive than other ordinances. The example given put the financial burden on the developer. Dr. Bondurant stated that a concurrency engineer is contracted to help with concurrency issues and something similar could be having a third-party consultant that would act as a liaison to determine what is reasonable if the Board would like to implement that. • Dr. David Hansen is the concurrency engineer and stated he has reviewed hundreds of drinking water source protection plans for the State as a consultant. This proposed ordinance is a very fair ordinance. This ordinance allows septic systems in zone 2 if designed correctly. There is a need to protect the water source. This ordinance allows cattle grazing. The water source does need to be protected because if it is contaminated the contamination could be irreversible. This ordinance allows for reasonableness and solutions for development. • Glen Brown stated this reminds him of an ordinance for mandatory fire protection. The problem is that no one has a big enough pipe to comply. There are a number of private small stock water companies in the County that do not have the resources to be in compliance with this ordinance. These are volunteer entities that do not want to deal with regulations. This is an invitation for more growth because the only way to comply is with bigness and having enough resources to make it happen. Years ago, there were contaminated underground gas tanks and the smaller companies were wiped out. There are historical agricultural grazing uses in the County. There needs to be a process for compliance. If this ordinance is for the public use then the public has to pay. The language in this ordinance is 	<p><i>Summary:</i></p> <ul style="list-style-type: none"> • <i>Public concerns and support for the Source protection ordinance were shared.</i> • <i>A committee will be appointed to discuss and clarify language in the proposed ordinance to be presented at the next Board meeting.</i>

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	<p>scary and is subject to interpretation and administration. It is hard for a private landowner to trust that they will be treated fairly. Some of the language needs to be softened. Board Member Carson stated that this ordinance is designed to protect the smaller water systems and ensures that any new development has a source protection plan. Board Member Ure stated the source protection plan should be updated every five years. Glen Brown stated that private companies are nearly maxed out. Some of the rules are so onerous that expansion cannot be done. Bill Laughlin stated the intent of the ordinance is to help little water systems and protect existing land uses.</p> <ul style="list-style-type: none"> • Scott Morrison, the General Manager for Mountain Regional Water stated that per Utah Code the public water system has a responsibility to protect water sources. This ordinance is a critical tool for the water systems to be able to protect the water sources by giving the water systems voice in the approval process thus actively promoting public health. When new development occurs oftentimes the water company does not know about it and has no influence on development. Public water systems are encouraged to work with municipalities and counties in crafting ordinances like this. • Mike Brown represents Farm Bureau and he read a letter from the Summit County Farm Bureau Federation for the record (included with minutes). The language in the ordinance about dairy farms is concerning. The way the language is currently written would require that agriculture be removed as an allowed use on the Land Use Chart. There is no language about developers. This reads like an ordinance specific to agriculture, all focused on animals and the storage of manure, not related to developers. A lot of fine details are missing in this document. Does grandfathered mean that everything is okay until one little thing is changed in an operation? Farmers were brought to the table later than they should have been and should have been involved earlier in the process. Before this ordinance goes to public comment a subcommittee should be appointed to include those impacted to talk about the details to protect water and current land uses. • Andy Garland from Summit Water stated that the concurrency task force asked for some type of enforcement mechanism for the water companies. Currently, if a developer comes in there is no way to enforce any of the source protection zones. This ordinance would provide the water companies with a say in projects. There is a worry about where runoff is going, possibly limiting the ability to recharge. There are different needs on each side of the county. • Tom Boyer is a landowner and an accredited professional farm manager, working with all kinds of operations over the years. Agriculture has to be trusted at some point and this document seems to attack agriculture. There will not always be a Phil at the table to interpret this ordinance. This document reads like a direct threat to agriculture moving forward. Mr. Boyer has never had a water quality issue in the farms he has managed but understands the impact water quality issues can have. It would be nice to have agricultural input for this ordinance. Farm Bureau has expertise that could be useful. Private property rights are what built this nation. Those rights are being taken when this ordinance is being implemented. As a property owner is required to go through more and more reviews and suffer the expense of those reviews it results in a no growth philosophy that makes it not worth developing. There is a need for this kind of document but it should be a win-win document. <p>Board Member Watterson asked what would happen if a water source is contaminated. Dr. Bondurant stated there have been contaminations because this ordinance was not in place. Andy Garland stated that contamination could be devastating because the water systems are</p>	

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	<p>interconnected and do not recover.</p> <ul style="list-style-type: none"> • Doug Moore is president and operator of a public water system and a farmer and a rancher. The Health Department was commended for giving notification upfront so the water systems can provide input and protect their sources. The penalties that would be imposed on the landowner with the language in this document would be horrendous and scary. The language could be interpreted by another person who is a tree hugger or environmentalist that could impact the landowner in a different perspective that was not intended. Language should be included in this document to protect not only the water systems, but the landowners. <p>Board Member Carson stated she is an environmentalist but will do everything she can to protect the farmers and ranchers in this County. Dr. Bullough stated he is supportive of creating a task force to work on language that works for everyone. Dr. Bondurant stated that the language in the proposed ordinance is already in the State Code. The State will not be polite if they decide to act on the existing ordinance. The State can take land if the landowner is not in compliance with their ordinance. The County's proposed ordinance is trying to create an intervention and bring control to the local level. The proposed ordinance was never intended to go after agriculture but was intended to create a buffer between locals and the State by requiring the State to go through the Health Department first.</p> <p>Glen Brown stated that the State has never had enough money to enforce the rules and there would be an uprising if the State tried to enforce their rule. A rule needs to be written that makes sense. Common ground can be found.</p> <p>Scott Morrison stated that the Division of Drinking Water will get stricter on source protection and apply penalties to water systems that are not enforcing water protection.</p> <p>A committee will be formed to clarify language in the proposed ordinance and have the ordinance updated before the December Board meeting.</p>	
Adjourn	<ul style="list-style-type: none"> • The meeting adjourned at 6:34 p.m. • Board Members Carson and Watterson made a motion to adjourn. Motion passed 6-0. 	<p><i>Summary:</i></p> <ul style="list-style-type: none"> • <i>The next regular meeting is scheduled for Monday, December 2.</i>