

Lincoln County
City-County Board of Health Agenda
Ponderosa Room
6:00 PM, December 9, 2020

- **Call to Order**
 - Pledge of Allegiance
 - Roll Call
- **Approval of Minutes**
 - November 10, November 23
- **New Business**
 - Board Appointment
 - *Action Item* - CARD Central Testing
- **Program Reports:**
 - **Community**
 - Mental Health Coalition
 - Team 56
 - COVID Response Coordination & Communication Strategy
 - Medical Provider Summary
 - **Public Health**
 - COVID-19
 - **Environmental Health**
 - **Solid Waste and Recycling**
 - **Asbestos Resource Program**
 - O&M Update
- **Focus Area Liaisons:**
 - **Superfund Sites**
 - Asbestos
 - Groundwater
- **City Representative Reports**
- **Health Officer Report**
- **Old Business**
 - *Action Item* – Proposed Update to Operating Procedure #2
 - *Action Item* – Local Health Officer Order
- **Public comment**
- **Adjourn**

Please attend remotely by joining the Zoom meeting: <https://zoom.us/j/9984346152>

Meeting ID: 998 434 6152

For audio conferencing dial: (253) 215-8782 or (669) 900-9128

Meeting ID: 998 434 6152

11.10.2020 BOH Meeting Minutes
6:00 PM Ponderosa Room

Board Members Present: In Person: Jan Ivers, George Jamison, Sara Mertes, Laura Crismore, Mark Peck, Jim Seifert Via Zoom: Deb Armstrong
Board Members Absent: n/a
LCHD Staff: In Person: Kathi Hooper, Jennifer McCully, Dustin Webb, Sara Long Via Zoom: Toya Laveway, Trista Gilmore, Bryan Alkire, Dr. Black, Jennifer Mariman
ARP Staff: Via Zoom: Virginia Kocieda
Public: In Person: DC Orr, Cora Gilmore, Nicole Rogerson, Via Zoom: Josh Letcher, Susie Rice, Rachel Byrd, Diane Watson, Mayor Brent Teske, Dr. Jarrett, Catherine (last name unknown)

Agenda:	Discussion:	Action Item:
1. Call to order	Called to order at 6:02 PM by Jan Ivers. Roll call. All recited Pledge of Allegiance.	
2. Approval of Minutes	<ul style="list-style-type: none"> Approval of September 9th meeting minutes: Laura Crismore made a motion to approve the September minutes, George Jamison seconded. Motion passed unanimously. 	
3. New Business	<p>Libby Care Center Update:</p> <ul style="list-style-type: none"> Rachel Byrd reports that they had their first staff and resident positives on October 14, 2020. As of today, there have been 7 total staff members positive (6 recovered, 1 still under PH monitoring) and 10 total resident cases (2 recovered, 2 passed, 6 active with the virus in the COVID unit). Staff are tested weekly; more if recommended after daily screenings. Residents are tested at least weekly, with screenings 4 times per day. Care Center compassionate visitations resumed on October 14, 2020. Visitors are screened as staff members would be and a rapid test given before entry into the building. The COVID unit is set up to function as its own separate nursing facility with separate entrance and dedicated staff. Working with the State and local Public Health Officials, the Care Center is not accepting any new admits at this time. The spread at the Center was only in one hall. They continue to work with Dr. Black and Public Health to limit and contain spread with the measures they put in place. <p>Board Member Term:</p> <ul style="list-style-type: none"> Sara Mertes position is up at the end of the year, opening is posted and applications due at the Clerk & Records Office for consideration of that position. 	

	<p>COVID Response Coordination & Communication Strategy:</p> <ul style="list-style-type: none">• Mark Peck gives update on meeting with Dr. Rice, Dr. Black and members of the Health Board on how to better communicate with the community. It is important that people know there is not pertinent information not being shared. People are doing the best they can and we are learning as we go.• They are trying to come up with different avenues to be able to get information out to everyone. In the process of determining what all that information is and what people are wanting to know. Mark relays that as a community we need to try to come together more. Mark stated that this virus is here, it is real, and we need to do what we can to protect our community.• Dr. Black reiterated the importance of communication and information sharing, which is the basis of the group and the meeting the night before. <p>Mental Health Coalition:</p> <ul style="list-style-type: none">• Amy Fantozzi was unable to attend tonight's meeting but sent an email update to Jan ivers. It stated that Coalition members participated in SIM. The next meeting is scheduled for Thursday, November 19th. <p>Covid Campaign, Team 56:</p> <ul style="list-style-type: none">• Susie Rice explains that Team 56 is a group of county-wide group of concerned citizens trying to find creative ways to educate the public, and to reduce the number of COVID cases within the county.• Since the September meeting, Team 56 has met with seniors via zoom from all three county high schools. With their help, posters were created and gone throughout the county, color coded with school colors and mascots. These included statements like save our senior year, save our school year, save our sports season, etc. These students helped decide what kind of masks the seniors would like and with the help of grants from Team 56, Head Start and Unite for Youth, the masks were able to be produced.• Kootenai Karacters put together a public service announcement (written and produced by Amy Smart) that will air at the theaters in Libby and Eureka. It has already been shared on Team 56 facebook page.• Team 56 has adopted slogan of 'Spread Kindness, not COVID' with posters created and posted throughout the county. Coffee shops in Libby, Eureka and Troy have agreed to
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	<p>put stickers with the message on the drink containers they sell. Banners are being made with that message as well as a push to remind everyone to shop local businesses.</p> <ul style="list-style-type: none"> • Team 56 is running a photo contest in the paper. A 'Who is This Masked Man' contest in the local papers. They took pictures of 18 people in Libby, 18 in Troy and 18 in Eureka. There is \$100 prize in each community for whoever gets the most right. • Team 56 will also be doing video interviews to share. Kate Stephens will be doing interviews with hospital personnel about how CIVD has affected their jobs. • Team 56 is also putting together information for students as to what it truly means to quarantine and isolation, as well as how they are different. • Team 56 has been working with the Health Department to identify businesses in the county who have been doing an outstanding job by posting it on facebook and sending thank you notes in appreciation of their dedication.
<p>4. Program Reports: Public Health</p>	<p>COVID-19:</p> <ul style="list-style-type: none"> • Jennifer McCully stated there is no total count for today. Over 50 cases came in today and all have been busy with contact tracing and calls. The bulk of the number is from an outbreak in the Yaak called Turning Winds. 10 to 12 students in the past couple of days have tested positive at the Libby Middle High School, so a lot of students out on quarantine. Also working through a couple positive cases with Eureka schools students. 1 reinfection, 2 people with cardiac issues- a child and an adult which is concerning regarding long-term effects. • The 10% positivity rate that has been holding in the county has changed the past couple of days. With 100 cases just last week, Dr. Black can talk about why that number is too high for our county. • Jenn introduces Sara Long, the new Disease Intervention Specialist, who was hired utilizing Public Health Emergency Preparedness 2 year grant funding. • Kathi shares information about the county COVID information web page that is being constructed at this time. It will have information as well as daily updates directly on that site. • In October, Health Department staff reviewed the enforcement process for COVID related disease and met with the County Attorney's office to review. It was revised to include that Health Department staff will visit the establishments to verify complaints. Still finalizing the process and will update the FAQ's with the new information on Friday.

- All establishments have been started over at step one, so no matter where they were up to this point, that is dismissed so all places within the county can start and go through all of the same steps. In the beginning there were two steps, and now there are four. We want to make sure each business gets the same four step process.
- Since October 22, we have received 35 complaints. There is a new state process where complaints are entered and then a 5 day response time for each complaint.
- We have received 1280 rapid tests. Jenn and Dr. Black met and determined how best to distribute those tests.
- Dr. Black said they had made a request to the state Health Department trying to acquire Vynax tests. It is a different kind of test, so it is not as accurate as the PCR tests. They are trying to figure out how best to utilize those tests at this time. PCR tests are being done to confirm and compare the Vynax test results.
- Sara Mertes reiterates that this particular test has to be done so many days after the onset of symptoms, so it doesn't work for everyone all the time. There is a specific timeframe involved.
- Deb shares her own research on PCR tests with meeting members. She said she was confused about what the tests are actually telling us and what it means for a normal healthy person. Dr. Black reiterates the importance of knowing the activity of the virus in the county and how it affects each individual differently. There is no way to truly know what symptoms each person is going to come down with.
- Jenn informs group that Trista has began flu clinics and been out in the community giving those flu shots at different places. Testing for flu has been happening with COVID testing and so far there have been no flu cases reported in the county.

Environmental Health Solid Waste and Recycling

Landfill O&M update:

- Bryan Alkire reports a special waste category being added to Class II Landfill. Rechargeable batteries- laptops, tools, phones, AA, etc- are now recycled through the recycle program.
- Added a note to the C&D Wood Debris for anyone doing their own demo that asbestos testing is required. If it is a homeowner doing their own demo, that requirement can be waived.
- There is now a special waste process for trace asbestos contaminated soils. Originally looked at using them for a cover soil, but DEQ Solid Waste Program decided that would not be a good idea. That soil is tracked as it comes in as a special waste.

<p style="text-align: center;">ARP</p> <ul style="list-style-type: none"> • Junk mobile homes are now being accepted year-round, as road conditions permit transport. • Troy and Eureka Class IV Landfills had O&M update to include procedures for CWD and non-domestic animal carcass disposal. <p>O&M Update:</p> <ul style="list-style-type: none"> • Virginia reports that final revisions were made to the Memorandum of Agreement (MOA) between Lincoln County and MT Department of Environmental Quality. Lincoln County sent a signed copy of the MOA to DEQ for final signatures. We are still waiting for confirmation on an effective agreement. • While we wait for the agreement to be signed, ARP has met with the finance departments at Lincoln County and DEQ to understand new procedures for invoice requirements for reimbursement of monthly costs, including cost expended before the agreement is finalized (starting from July 2020). • ARP continues to meet and work with DEQ on operations & maintenance (O&M) activities within Libby and Troy: <ul style="list-style-type: none"> ○ ARP has responded to 46 utility locates during October 2020 which includes information about potential remaining contamination at dig sites and ARP staff conducting site visits. ○ There are 3 pending activities in Troy and 12 pending activities in Libby. These activities include site inspections, information requests, investigative sampling, and abatement. ○ The lab contract between DEQ and Techlaw is now established and ARP will be collecting their first round of confirmation sampling from a property. Also, ARP is trying to educate local accredited asbestos inspectors on the O&M process when they are hired by a property owner to collect samples. This process allows reimbursement to the property owner to pay for DEQ-approved sampling activities. • DEQ is finalizing their 2020 Annual O&M Inspection Report on the Riverfront Property (OU1), the former Parker's residence/currently W.R. Grace property/former vermiculite processing area (OU2), the Port Authority (OU5), and the transportation corridor which includes portions of Hwy 2, MT-37, and Farm to Market Rd (OU8). • The was a public comment period for the EPA OU8 Institutional Control Implementation Assurance Plan (ICIAP) document. This comment period ended late October. 	
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	<ul style="list-style-type: none"> • The current Region 8 EPA Administrator, Mr. Greg Sopkin, along with Mike Cirian met with Commissioner Peck and Commissioner Bennet during the Administrators tour of OU3, the former W. R. Grace mine site on October 15th. • The EPA released their second 5-year Review report on OU1, OU2, OU4 (properties in Libby), OU5, OU6 (BNSF railroad corridor), OU7 (properties in Troy), and OU8. That report can be found on the EPA's website for the Libby Asbestos Superfund Site. • Finally, the EPA Information Office on 9th street closed after more than 20 years of service. The Lincoln County Asbestos Resource Program (ARP) will be replacing the services that the info office provided, including education about Libby amphibole asbestos, providing resources for O&M activities, and participating in initiatives that affect the Superfund Site. ARP's office is located at 503 California Avenue in Libby, MT.
<p>5. Focus Area Liaisons</p>	<p>Asbestos Site</p> <ul style="list-style-type: none"> • Funding was requested to DEQ on 7 sites. 2 were approved today. We do not want property owners hit with any costs. Another meeting is scheduled. <p>Groundwater Site:</p> <ul style="list-style-type: none"> • No change in Groundwater Site since last meeting.
<p>6. City Representative Reports</p>	<ul style="list-style-type: none"> • Laura has no updates from Libby. • Deb reported no update from Eureka, but asked about Sara sending a COVID patient to CD'A when the updates she gets says there are only two hospitalizations. Wondering how we are getting overloaded with only two patients. Sara explains it was a patient who needed admitted to a long-term care facility. That patient had been moved to Kellog, Idaho because of lack of openings in greater NW region. Deb asks for clarification about not being overloaded at the hospital here. Laura explains there are a lot patients who need long-term care that are admitted in the hospital now because they are not safe to discharge and there is nowhere for them to go. In speaking with others in the Montana Hospital Association, that seems to be the case in many hospitals.
<p>7. Health Officer Report</p>	<ul style="list-style-type: none"> • Dr. Black had no addition to previous comments.
<p>8. Old Business</p>	<p>Shed Variance Report:</p> <ul style="list-style-type: none"> • Variance was requested by The Shed owner concerning open hearth fireplace. Dustin monitored the air quality during use. During that test, standards for visible emissions

	<p>were met. Jake requested clarification if it was a variance from the rules and standards, or if the variance was for the device itself. It was determined the variance was for the device. Mark moved to approve the variance. George seconded the motion. Motion passed unanimously.</p>	
<p>9. Public Comment</p>	<p>Proposed Update to Operating Procedure #2 (Public Comment):</p> <ul style="list-style-type: none"> Jan reads additions to public comment update. These include: No action on agenda items will be taken until the Chair requests comments from the public. Public comments about agenda items will occur just prior to the Board's discussion and action on each agenda item; Public comments on non-action agenda items and items not on the agenda will occur at the end of the meeting during the public comment period; and The Board should refrain from engaging in a dialogue, except to the extent necessary to clarify the speaker's position. Discussion occurs with board members and item will be added to next month's agenda to be revisited. Jan asked that with Zoom meetings having their own challenges, that speakers name is stated (spelled if it has unusual spelling) before beginning their 3-minute comment period. <p>Public Comment:</p> <ul style="list-style-type: none"> DC Orr asked for clarification on COVID positivity rate. Jenn clarifies that 10% has been the average before this jump in recent cases. DC Orr said he couldn't find the public comment updates in the website previous to the meeting. Kathi explained that on the website, one must click on the agenda to view all of the attachments regarding the next meeting. He asked that he be on an agenda to get questions answered. Nicole Rogerson feels that as a business owner there is no clear line of communication. She heard that businesses were going to be closed at this evening's meeting. He board clarifies that no businesses were being closed. She wants to know where to find any information to share with others and residents. The Board reiterates the hot line to be able to direct questions to the right person for answers. Nicole asks about how businesses would know if they had received complaints. Kathi explains that business owners would be contacted by the health department and made aware of any complaints received. 	

- Brent Teske asked if there were any additional restrictions added by the health officer or board since the July mandate. The Board clarifies that there have not been any additional changes.
- Dr. Jarret commented on current medical status in response to Deb's inquiries as she felt it left the impression our medical status is fine when it is really not. While listening to this meeting, she made a call to KallsPELL to check on their status. As of right now, they only have the capacity to admit 3 patients to their COVID unit. They have the possibility of maybe 3 more in their overflow if they have staffing for it. This morning KallsPELL's hospital reported they have 125 medical/surgical beds (general beds) that they can admit people to. 123 of them were filled. 30 of those were with COVID patients. These numbers are very significant- those numbers are not normal of flu or any other contagious disease. Kootenai Health out of CD'A would be our second choice to send people to. They have a 32 bed dedicated COVID unit and currently 44 COVID patients, overflowing their COVID unit by 12. They have zero ICU beds available in KallsPELL right now and half of their ICU is COVID patients. Dr. Jarret wanted to make it very clear that while our hospital does have that overflow of patients, it is because we have been very intentional by sending each COVID patient to a place of higher care. We simply do not have the best capacity to care for those patients in our local hospital. We have limited ICU beds and physicians with limited ventilator experience and we are quickly losing our ability to be able to send them out. She also wanted to reiterate that there are not very many physicians in town, and few that work at the hospital. There is only 1 employed hospitalist at the hospital who currently has the virus which leaves the hospital scrambling for coverage. Local physicians have worked together to come up with coverage as best they can at this time. These are people who also have full time clinic jobs which makes it very challenging to run to the hospital for admits and still care for their patients in the manner they need. If we lose any more physicians, this can become a very big problem very quickly.
- Diane Watson mentioned it is difficult to hear everyone speak, so maybe directing speech towards the mic could help. She asked what kind of information is shared with the elderly or public at large to prevent or boost their immune system, as well as testing for D3 availability. She shared information regarding D3 and its benefits for physical and

11.10.2020 BOH Meeting Minutes
 6:00 PM Ponderosa Room

	<p>mental health. Sara shared information about how that is handled in her practice and is unfortunately not covered by all insurance.</p> <ul style="list-style-type: none"> • Catherine recited Montana Codes Annotated for her 3-minute time period regarding infectious diseases and her stance on the lack of information testing for COVID gives us. She spoke her thought on the public health system of Montana being hijacked, etc. 	
<p>10. Adjournment</p>	<p>Laura made the motion to adjourn, Sara seconded. Motion passed unanimously. Meeting adjourned at 8:15 PM. Next meeting December 9 at 6:00 PM.</p>	

Chair, Board of Health

Date

Secretary, Board of Health

Date

City-County Board of Health for Lincoln County
6:00 PM, November 23, 2020
Ponderosa Room

1. Call to Order

- Pledge of Allegiance
- Roll Call – Jan Ivers, Jim Seifert, Sara Mertes, George Jamison (by phone), Deb Armstrong (by phone), Mark Peck (by phone)

2. Governor's 11/17/2020 Directive

- Kathi Hooper summarized the content of Governor Bullock's 11/17 directive which took effect 11/20. Governor Bullock also announced \$75 million additional funds for business stabilization grants and \$25 million additional unemployment benefits.

3. Action item: Local Health Officer Order

- Dr. Black discussed the increasing case counts of COVID-19 in Montana and in Lincoln County. He stated that he expects the situation to get worse before it gets better. He understands that the people are tired, but now is not the time to relax or change current recommendations. He wants a local order in place to protect our community. A lot of people who are vulnerable could feel the effects of failing to do the right thing.
- Carla Westbrook – Asked for clarification on authority of health officer and purpose of the Board of Health.
- Diane Watson – Would love to see the Health Board aggressively and proactively disseminate a health message including healthy eating, avoiding foods that cause inflammation, stay hydrated, etc. D3 is critical. Jan Ivers responded that recommending supplements is up to medical provider.
- Catherine Kahle – Stated that it is a real problem that one person is in charge of a county. Businesses should not be shut down. Jim Seifert responded that health officer authority is from the state to respond to a pandemic. Catherine argued that this is not a pandemic.
- Dixie – Many of us have strong feelings and have been deeply affected. Another suicide at Rexford Bench yesterday. Mental health problems exacerbated by dictatorial control need to be recognized. Requests no more stringent order and Dr. Black works from governor's order. Also asks that a member from North Lincoln County be appointed.
- Heather Handy – Stated one person in charge of "health" is a dictatorship. She offered education on health and stated that this is not a pandemic. She stated that the Board needs to talk about health, not sickness.
- Tim Halnes – Asked if Board has figures since March regarding cancer screenings going down or serious health implications to the county. What will the fallout be from these actions? Tim stated that nationally cancer screenings have gone down substantially. Dr. Black replied that identifying the indirect consequences of Covid-19 is very important. Covid prevalence compromises the healthcare system by straining resources and he has heard from doctors that they have difficulty finding resources for their patients with non-Covid related illnesses. Tim asked if there is a negative impact to non-covid care locally. Dr. Black said that severe Covid cases overload medical facilities and draws away from all other medical conditions and Covid restrictions that keep families out of facilities with their loved ones are very difficult psychologically. That is why it is important that we all understand that our behavior can reduce the prevalence of spread. It is about caring for each other. Tim asked where the majority of Covid

4. Action Item: Recommendation for Board Opening

- Jan Ivers stated that there were seven applicants for the opening and called on each to introduce themselves.
- Sara Mertes – Currently a BOH member and family medicine provider who treats patients throughout Lincoln County. She has lived in Lincoln County for 5 years. She has enjoyed her time on the Board and hopes to continue to work for Lincoln County.
- Latimer Hoke, Julie Cross, and Rita Henderson were not present
- Robin Gray – A retired educator from Eureka with 43+ years experience and an educational viewpoint. Eureka could use more representation. Need to come together and do what is best for everybody as quickly as possible. Her skills include relationship building, negotiations, and compromise.
- Jeff Peterson – PhD in health communications, interest in working with Board is translating science to understandable information. He has a potential conflict because he is hoping to work with the Health Department, and would have to resign from the Board in that event.
- Deb Armstrong stated that North Lincoln County needs more than one representative. Eureka mayor e-mailed Board this morning supporting an additional Eureka appointee.
- Mark Peck agrees that the north end of the county is under represented. Stated that the Board isn't limited to the current number of people. He hates to lose what we have and can't believe the talent on the Board and the talent of the applicants. Would like to take under consideration that the Board may be expanded.
- George Jamison – Agrees with Mark. He doesn't want to lose Dr. Mertes and he trusts her judgement. He is concerned about representation from North Lincoln County. I is willing to step down if the commissioners choose to reconstitute the Board.
- Jim Seifert motioned to appoint Sara to the Board and support adding to the Board.
- Tim Haines – Asked who is on the Board. Jan listed members.
- Heather Handy – Agrees with Deb and Tim. Would like representative from Eureka.
- Jonathan Allen – Supports idea of North Lincoln County representation. Supports taking more time.
- Catherine Kahle – Need more representation in Eureka area.
- Kayla – Thanks Health Department for all they are doing. Supports Robin from Eureka because of her strong background in schools.
- George Jamison amended motion to appoint Sara and urge commissioners to add a member or reassign people they have appointed to the Board (Jan, George, Sara and Mark). Willing to step down to accommodate that. Mark Peck seconded and reassured Eureka that there is support to include more Eureka representation.
- Deb Armstrong wants to appoint person from North Lincoln County and then expand the Board to appoint Sara. Thinks appointment would be more appropriately handled at Board meeting in December.
- Jim Seifert called for vote: Jim, Mark and Sara voted yes, Deb and George voted no. Dr. Sara Mertes is recommended for reappointment to the Board and the commissioners are urged to revise Board to include additional representative from Eureka.

5. Proposal for Education Meeting

- Jan Ivers proposed setting up an educational meeting of the Board to answer questions that the Board receives repeatedly. Topics could include organizational structure, rules and responsibilities, finances, testing, collaboration of medical care and contact tracing. North Lincoln County would be invited to participate. Sara and Deb will communicate

after the meeting to discuss how to ensure North Lincoln County participation.
Proposed date of Wednesday, December 16th.

6. Public Comment

- Mark Peck agreed that health outreach is an important focus and hopes to work with Jeff Peterson to improve this messaging.
- Tim Haines – Asked if it is standard procedure to nominate a person to the board in an emergency meeting and if adding an additional member is going to “dilute the vote”. Jim responded that this is not politics, it is public health. Mark stated that this should not have been called an emergency meeting, it is just a meeting that is “out of cycle”.
- Catherine Kahle – Shared concerns regarding mandatory vaccination.
- Jonathan Allen – Asks the Board not to rush to judgement on significant issues.

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November 20, 2020

Lincoln County Board of Commissioners
512 California Avenue
Libby, MT 59923

Kathi Hooper
Lincoln County Health Department Director
408 Mineral Avenue
Libby, MT 59923

Greetings:

This office has been asked to assess and advise whether the Lincoln County Health Officer's position as medical director and CEO of the Center for Asbestos Related Diseases (CARD) creates a conflict of interest, due to that facility's use as the COVID-19 central testing site for the Libby area. Based on research into the relevant circumstances and legal authorities, my opinion is no legal conflict of interest or ethical violation exists based on the use of CARD as the central testing site.

The ethical requirements for public officers and employees are found at Mont. Code Ann. § 2-2-105 (2019). That section provides, in pertinent part, "Except as provided in subsection (4), a public officer or public employee may not acquire an interest in any business or undertaking that the officer or employee has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by the officer's or employee's agency." Mont. Code Ann. § 2-2-105(2) (2019). Additionally, subsection (4) provides, "When a public employee who is a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority is required to take official action on a matter as to which the public employee has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the public employee's influence, benefit, or detriment in regard to the matter, the public employee shall disclose the interest creating the conflict prior to participating in the official action." Mont. Code Ann. § 2-2-105(4)(2019).

In addition to the ethical requirements above, public officers, employees, and former employees are restricted from having an interest in contracts made by the public entity.

Mont. Code Ann. § 2-2-201 provides in pertinent part, "Members of the legislature, state, county, city, town, or township officers, or any deputies or employees of an enumerated governmental entity may not be interested in any contract made by them in their official capacity or by any body, agency or board of which they are members or employees if they are directly involved in the contract." Mont. Code Ann. § 2-2-201(1) (2019). Subsection (2)(b)(iv) provides an exception to this rule, allowing for contracts with an interested party if, due to geographic restrictions, the local government could not otherwise reasonably afford itself of the subject of the contract. Even assuming, for argument's sake, that the Health Officer were determined to be an employee of the Health Department and an interested party involved in a contract, that exception would likely apply in this situation.

The response to the ongoing COVID-19 pandemic has required action by federal, state, and local authorities across the United States, including Lincoln County. One aspect of this response has been providing the opportunity for citizens to obtain a scientific test to determine whether the citizen has contracted COVID-19. To accomplish this, the Lincoln County Health Department has established and operated a central testing site, which is currently primarily located at the CARD facility. In establishing this central testing site, the Health Department coordinated with stakeholders, including other medical facilities, such as the Community Health Center (CHC) and the Cabinet Peaks Medical Center (CPMC). CARD was determined to be the best location for the central testing site for multiple reasons. For instance, the CARD facility has physical characteristics which allow for necessary control of traffic around the facility, ingress and egress from the facility, and contact within the facility. Additionally, CARD already had relationships with medical equipment suppliers to obtain necessary PPE and testing equipment, which Lincoln County did not have. Moreover, other medical facilities, such as CHC and CPMC provide a range of healthcare services essential to the community, and a central testing site separate from those facilities helps minimize the risk to patients at those facilities and the drain on those facilities' resources. Simply put, CARD was determined to be the best location for the central testing site, based on the input from stakeholders and medical experts, to make the best use of the available resources.

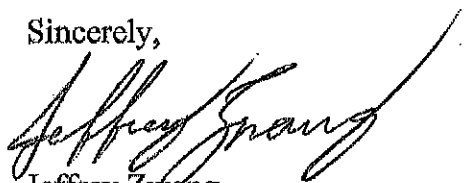
There is no clear evidence of a direct interest or benefit to the County Health Officer from the use of CARD as the central testing site. CARD is reimbursed for testing conducted at the central testing site from funds disbursed through the Health Department, which were received from the State for the purpose of establishing and operating a central testing site. Those funds reimburse costs for testing equipment and personnel performing testing and notification duties. However, there is no indication that the County Health Officer receives those funds. There is no evidence that the County Health Officer's compensation has been affected by those funds or by CARD being utilized as the central testing site. There is no evidence that CARD is making a profit by serving as the central testing site, rather they are reimbursed for costs accrued in performing that function. Moreover, COVID-19 testing is performed at multiple locations and facilities in Lincoln

County, not just the central testing site. Indeed, the central testing site performs a relatively small portion of the COVID-19 testing that occurs in Lincoln County. Individuals seeking a test have the option of obtaining it at the central testing site, or any other facility they choose to utilize. As such, there is no evidence of a direct benefit to the Health Officer from the use of CARD as the central testing site.

There is no evidence that the selection of CARD as the central testing site or the disbursement of funds to reimburse CARD were the result of any official act by the Health Officer. As mentioned above, the decision to establish the central testing site at the CARD facility was made with the input and cooperation of stakeholders and medical experts, not the direction of the Health Officer. There is no evidence that the Health Officer supervises the Health Department or has any control over the funds disbursed by the Health Department for establishment and operation of the central testing site. Moreover, there is no mandate requiring individuals to obtain a test, nor is there a requirement for individuals to be tested at a particular facility. Simply put, there is no evidence of an official act by the Health Officer leading to a direct and substantial economic benefit to the Health Officer.

In conclusion, my opinion is no legal conflict of interest or ethical violation exists as a based on the use of CARD as the central testing site. Please feel free to contact me if you have questions regarding this opinion.

Sincerely,



Jeffrey Zwang
Deputy Lincoln County Attorney

Operating Procedure #2
City-County Board of Health
Lincoln County, MT
September 2017 (November 2020 DRAFT)

Purpose: The purpose of this document is to outline the procedures for ~~handling~~ public comments, ~~both verbal and written, as discussed and agreed upon at the July 15, 2017 City County Board of Health (Board) meeting, minutes, and agenda topic requests.~~

The following Procedures apply to the Board and any committees thereof.

Verbal Comments:

- Each Board meeting will include “Public Comment” as a standard agenda item.
- ~~No action on agenda items will be taken until the Chair requests comments from the public. Public comments about agenda items identified as action items will occur just prior to the Board’s discussion and action on each agenda item.~~
- ~~Public comments on agenda topics not identified as action items will be allowed at the discretion of the Chair as that topic is being presented, instead of deferring comment until the general Public Comment period. The intent is to allow for brief clarifications, questions and comments that are directly relevant to the information being presented. More lengthy (up to 3 minutes) or extended comments should be deferred until the general Public Comment period on the agenda. The Chair may direct the speaker to defer comments until the general Public Comment period.~~
- ~~Public comments on non-action agenda items and items not on the agenda will occur at the end of the meeting during the public comment period. The general Public Comment period may include input on any appropriate Board topic, whether or not it is on the meeting agenda.~~
- Each person will address the Board, at the time designated in the agenda or as directed by the Board, by standing before the Board and stating their name in an audible tone of voice for the record.
- All remarks will be addressed to the Board as a body and not to any member of the Board or Staff.
- ~~No person, other than the Board and the person having the floor, will be permitted to enter any discussion either directly or through a member of the Board, without the permission of the Chair of the Board.~~ Persons wishing to speak, including Board members, shall first be recognized by the Chair. The Chair shall recognize speakers

individually as appropriate to have an orderly discussion. One speaker shall be given the floor at a time and may not re-enter the discussion without being given recognition by the Chair.

- No questions will be asked of individuals except through the Chair of the Board.
- Verbal comments will be limited to 3 minutes per individual.
- The Board Chair may exercise discretion to extend this individual limit.
- The Board Chair may terminate any individual comment period if they determine the comments are not relevant to Board activities, personal attacks, or not presented in a respectful manner.
- The Board or Committee is under no obligation to respond to comments immediately or during the meeting. ~~The Board should refrain from engaging in a dialogue, except to the extent necessary to clarify the speaker's position.~~
- Minutes will identify the speaker and briefly describe the overall topics of comments provided. (*see "Minutes" below for additional information*)

Written Comments:

- The Board will maintain an electronic correspondence folder to store all written comments and/or correspondence submitted to the Board. All comments and/or correspondence will be available for review by any member of the public in accordance with the current Lincoln County Public Information Policy.
- If written comments or correspondence are the subject of discussion at a meeting, it will be included in the minutes.
- If written comments or correspondence are submitted and not the subject of discussion at a meeting, they will not be included in the minutes.

Minutes:

As noted in the Board By-laws, minutes will be kept for all regular and committee meetings in accordance with Montana Code Annotated (MCA) as noted below. Minutes will serve as a written record of each meeting and will generally describe the events of the meeting. Minutes will not serve as a transcript of the meeting and will not capture the dialogue of Board members, meeting presenters, or other meeting attendees (e.g., public commenters).

Per MCA § 2-3-103: [p]ublic comment received at a meeting must be incorporated into the official minutes of the meeting, as provided in 2-3-212.

Per MCA § 2-3-103(2): Minutes must include without hesitation:

- (a) the date, time, and place of the meeting;

- (b) a list of the individual members of the public body, agency, or organization who were in attendance;
- (c) the substance of all matters proposed, discussed, or decided; and
- (d) at the request of any member, a record of votes by individual members for any votes taken.

Agenda Topic Requests:

- An individual or group may request placement on the agenda by making such a request in writing to the Health Department Director and/or the Board Chair no less than seven (7) days before the meeting at which the individual would like to speak. The request shall include, at a minimum, the name of the individual or group and a detailed summary of the topic to be presented or discussed.
- The individual making the request will be notified as to whether the request has been granted and, if the request is granted, will be provided three (3) minutes to speak when the requested topic is addressed on the agenda. The Board Chair may extend the time allowed.
- The Health Department Director and/or Board Chair shall take appropriate steps to determine that agenda topic requests are not frivolous, repetitive, or harassing in nature.