

Lincoln County
City-County Board of Health Agenda
Ponderosa Room
6:00 PM, February 9, 2021

- **Call to Order**
 - Pledge of Allegiance
 - Roll Call
- **Public Comment on Agenda Items**
- **Public Comment on Items Not on Agenda**
- **Approval of Minutes**
 - 11/23/20, 1/13/21 (5 minutes)
- **Unfinished Business**
 - Discussion of proposed updates to Operating Procedure #2 (15 minutes)
- **New Business**
- **Program Reports:**
 - **Community**
 - COVID Response Coordination & Communication Strategy (5 minutes)
 - **Public Health**
 - COVID-19 Update (15 minutes)
 - **Environmental Health**
 - *Action Item* – Approve/Sign 2021 DPHHS Cooperative Agreement (5 minutes)
 - **Solid Waste and Recycling**
 - Draft Asbestos Cell O&M Update (10 minutes)
 - **Asbestos Resource Program**
 - O&M Update (5 minutes)
- **Focus Area Liaisons:**
 - **Superfund Sites**
 - Asbestos:
 - Appointment of Liaisons for Superfund Area (5 minutes)
 - Groundwater
- **City Representative Reports**
- **Health Officer Report**
- **Adjourn**

This meeting is available as a Zoom meeting: <https://zoom.us/j/9984346152>

Meeting ID: 998 434 6152

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Meeting ID: 998 434 6152

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 Haines – 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

patients in Lincoln County receive care? Jenn answered Kalispell Regional in Flathead and CPMC in Libby. Sara stated that during a period in March, providers put services on hold but since that time CPMC has been actively performing these services for their patients. Some providers must cut back on services due to personnel who are sick or quarantined. Two-thirds of her clinic staff is currently home due to illness or exposure.

- Kathleen Johnson – Asked Mark Peck who has authority over BOH. Mark replied that commissioners have appointment authority over BOH and BOH appoints a health officer. Commissioners have the authority to reorganize the health board if they determined that the Board is not fulfilling their role or if they determined that it had become tyrannical. They do not have the authority to tell Dr. Black what to do on a daily basis, but they could work with the Board to try to remove health officer.
- George Jamison stated he is not convinced that we need the local order. **He suggested that #3 on the order be deleted due to it not being understandable.** He does not understand why we would keep the July 21st local order in place. Jinn Mariman replied that she and Marcia Boris have advised the BOH and Dr. Black that while both the governor and local orders are enforceable, the health officer should issue a mirror order. **If there were to be an enforcement action operating solely on Governor's directive, we would expect there to be preliminary action talking about the constitutionality of the directive.** The local health officer statutes are clearer in their authority and can get to merits of the case quicker and avoid arguments about governor's directive. George disagreed with Jinn. He stated they bought in early on, but wonders what we have gained. He thinks the additional layer adds confusion and public mistrust. Dr. Black disagreed with George. He did not feel support for the July order. We did not enforce to the degree we could and it has not worked as well as we would like. **He said we've used more gentle persuasion. We don't want to impose bad things for the community but also we are here to protect public health. The increasing cases of Covid show we've not been doing a good job following the directive.** He hopes not to do enforcement. George stated that he is more comfortable with putting something in place when we have a specific problem to deal with.
- Deb Armstrong stated she has full sympathy to where Dr. Black is coming from and understands that he has a lot of fear around Covid. She stated that Jinn assured the Board that the local directive mirrored the governor's directive and she voted for it because she took Jinn at her word, **however the order did not actually 'mirror' the governor's directive.** She was not told that the order would remain in effect until Dr. Black lost his sense of impending doom **and state directive did not mention closing businesses, but was added as separate section in the local order.** She agrees 100% with George that there is no point in having a local directive.
- Jim Seifert stated that he looks at Dr. Black going at this crisis all by himself and he needs a little support from the Board. He agrees with Dr. Black that we can rescind the order if something comes up later that the Board disagrees with. The Board should show support of him and trust of his judgement.
- Jinnifer Mariman provided a point of clarification regarding the July Health Officer Order. At the July meeting, the Board discussed a proposed local order that was drafted before the Governor issued his July directive. At that meeting, the Board discussed having the proposed local order mirror the language in the Governor's directive. The Board did not vote on the July local order. Dr. Black entered his public health order out of concern for the community and as he has authority to do under statute. Deb stated that this local order is for prosecution and compliance only. Jinn stated that Dr. Black's

intent is to protect the health of the community and that this order is one small facet that is the “stick” end of the whole package.

- Deb Armstrong motioned to table the discussion and not make a decision tonight. Mark stated that the Board can support Dr. Black and not support this directive. Nobody has said they don't support Dr. Black in carrying out his duties. George seconded the motion. Deb, George and Mark voted yes, Sara and Jim voted no.
- The local health officer order was tabled.

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.

1.13.2020 BOH Meeting Minutes
6:00 PM Ponderosa Room

Board Members Present: <u>In Person:</u> Jan Ivers, George Jamison, Sara Mertes, Jim Seifert, Laura Crismore, <u>Via Zoom:</u> Deb Armstrong, Josh Letcher
Board Members Absent: n/a
LCHD Staff: <u>In Person:</u> Kathi Hooper, Jennifer McCully, <u>Via Zoom:</u> Trista Gilmore, Dr. Black, Jinnifer Mariman
ARP Staff: Virginia Kocceida
Public: <u>In Person:</u> DC Orr

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"> • 11/23/20 minutes – Deb provided comments via e-mail but they were not received. Table discussion of 11/23/20 minutes until next meeting. • 12/9/20 minutes – Sara motioned to approve, Jim seconded. Deb abstained from voting because she had not reviewed the minutes. All others voted to approve. • 12/16/20 minutes – Deb motioned to approve, Jim seconded. Motion passed. 	
3. New Business	<p>Action Item - Nominate officers</p> <p>Chairperson:</p> <ul style="list-style-type: none"> • Deb nominated Josh, George seconded • Jim nominated Jan, Sara seconded • DC Orr commented that the chair needs to know parliamentary procedure and Jan has shown disinterest in learning. • Johnathan Allan asked if it makes sense to wait until the new member is appointed before electing officers • Deb stated that there has been public comment that the meetings have been a little out of control and need order. • Laura asked Jinn if it is necessary to elect officers tonight. Jinn read the by-laws and said that according to the by-laws election shall be at the first meeting in January. • Josh stated that he appreciates Deb’s nomination. Jan has been improving as chair. If meetings continue on Wednesdays it would be a very long day for him and chairing the meetings from Eureka may not be the most practical. • Pierce Barney stated that there is a case at the supreme court that “shall” does not 	Schedule Board training

	<p>mean “must”, it means “may”.</p> <ul style="list-style-type: none"> • Jim said that Josh had previously stated that the role of a commissioner on the Board is to liaison to the commissioners. Jim asked what Josh’s role would be if he were elected chair. • Josh didn’t recall making that statement but did state in an e-mail that the commissioner on the Board represents the whole county. • Deb stated that she wants to vote for Jan • Roll call vote: unanimous vote for Jan. Jan is re-elected as chair. <p>Vice-chairperson:</p> <ul style="list-style-type: none"> • Jim nominated Sara • Josh nominated Deb • Roll call vote: Josh and Deb voted for Deb. Jim, Jan and Laura voted for Sara. George abstained. Sara is elected as vice-chair. <p>Secretary:</p> <ul style="list-style-type: none"> • Laura nominated Jim • Jim asked for clarification on the role of the secretary. Josh read role of secretary from by-laws. • Unanimous vote for Jim. Jim is elected as secretary <p>Action item - Set meeting schedule:</p> <ul style="list-style-type: none"> • A Doodle poll had been e-mailed to all Board members. Tuesday is the only day that all Board members are available to meet. Jan suggested second Tuesday of each month. All Board members agreed. Next meeting is Tuesday, February 9th. <p>Action item - Board recommendation:</p> <ul style="list-style-type: none"> • George asked questions about use of rubric. Jan reviewed each area of rubric. Each are worth 0-5 points. Each topic was provided to all applicants in advance of the meeting. • Each applicant introduced themselves and described their education, relevant experience, Board experience, public health experience, why they want to be on the 	<p>Update officer and meeting schedule info on website</p>
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	<p>Board of Health, and how they would improve the response to the COVID-19 pandemic. Applicants were Scott Bernhard, Ann German, Robin Gray, Latimer Hoke, Patty Kincheloe and Jeff Peterson.</p> <ul style="list-style-type: none"> • Ann German stated that it was not appropriate to consider her application since there were qualified North Lincoln County applicants, but she would be happy to be considered if a Libby opening comes available. • Johnathan Allan stated that there is a good pool of candidates and a good mix. • Pierce Barney stated that there is a great turn out from applicants. Really impressed with Scott and Patty. • Deb said there are good applicants and people with impressive qualification. She likes Patty's approach and she would be an asset to all. Patty received good recommendations. • Josh said it is a tough choice. All are qualified, some are very qualified. He appreciates Patty's experience and Jeff's communication. He is leaning toward Patty or Scott. • Jim said applicants are amazingly qualified. Leaning towards Jeff. • George echoed quality of applicants and agreed about diversity. Liked Patty and Jeff. • Sara also stated that she was impressed by the qualifications of the candidates. Supports Patty and Jeff. • Laura stated that it is a great panel of candidates. Supports Jeff and Patty. • Roll call vote: Deb, Josh and George for Patty. Jim, Sara, Laura and Jan for Jeff. Board recommends Jeff Peterson. <p>Provide recommendation to Clerk & Recorder. Commissioners to appoint 1/20.</p>
<p>4. Program Reports: Community:</p>	<p>Mental Health Coalition:</p> <ul style="list-style-type: none"> • Amy Fantozzi invited the group to the next MHC meeting via Zoom at noon on January 14th. Melissa Rebo will present on a new program at Western Montana Mental Health. Maggie Anderson will present on Communities that Care. Amy stated that over the last month or two people recognize that people with mental health issues are struggling.

Libby Christian Church donated gift certificates to PAC participants.

Team 56:

- Kathi read written update provided by Team 56. Since last month, masks were delivered to all 3 high schools, "Spread Kindness, Not Covid" banners were delivered to all 3 chambers of commerce (paid for by Hecla) and thank you notes were delivered to 38 businesses. Sarah and Rachel at Libby Care Center and ER staff received recognition. Now brainstorming ways to encourage public to get the vaccine.

COVID Response Coordination & Communication Strategy

- Jeff is working to film videos to add to the Health Department website. Four videos completed to date and filming scheduled for tomorrow. Adding a FAQs page to the website.

Medical Provider Summary:

- Sara stated that COVID testing continues at all clinics, hospital, health department, etc. There is a slight increase in numbers after New Years. Healthcare providers are now following up with patients who have symptoms after weeks of illness. Healthcare providers and EMS have received 1st vaccine, 2nd dose starts next week. Libby Care Center is starting vaccination of staff and residents next week. Making lists of patients for 1B, there has been a lot of interest expressed.

Public Health

COVID-19:

- Jenn updated on vaccines. In north Lincoln County vaccines are handled by North Valley Hospital. Governor changed the priority schedule so people 70 and older or 16 to 69 with certain underlying health conditions are 1B. We do not know how much vaccine we will receive or when. We are all working on vaccine lists. Vaccinations at long term care facility in Eureka already started this week through a federal contract with CVS.
- Jan stated that we need to encourage people to be patient. Jenn replied that we asked for 300 the first week. We are trying to determine our capacity to give vaccines. Many clinics have offered staff to assist. Any enrolled provider can give the vaccine.
- George asked what type of info is provided and shared. Jenn answered that it is the

<p>same as other vaccines. We ask for age. We do not ask for verification of qualifying condition. People who receive the vaccine can opt in to V Safe.</p> <ul style="list-style-type: none"> • George asked if we are running in to waste. Jenn answered that we will not waste vaccine. • George asked if there are bottlenecks that the BOH should know about. Jenn answered that limiting factor is currently the supply chain. • George would like metrics for vaccines included on the website. <p>CHEMPACK Plan:</p> <ul style="list-style-type: none"> • Jenn presented the CHEMPACK plan. PHEP requires periodic approval by the BOH. It has not changed since the last BOH approval. It is our plan to get a chempack from our regional center, KRMC, within 12 hours. • Jan stated that KRMC should be updated to Logan Health Hospital. • Sara stated that the CDC owns the chempack and changes it out regularly. • Sara motioned to approve, Jim seconded. Motion passed. <p>Environmental Health:</p> <ul style="list-style-type: none"> • No update. <p>Solid Waste and Recycling:</p> <ul style="list-style-type: none"> • No update. <p>ARP</p> <p>O&M Update:</p> <ul style="list-style-type: none"> • Virginia stated that there are 15 active calls, including 13 in Libby and 2 in Troy. These calls include site visits, inspections, abatement work, etc. There is one scheduled abatement for the end of January. Two inspections resulted in no need for removal. 	<p>Update vaccine info on website. Add metrics?</p>
<p>5. Focus Area Liaisons</p>	<p>Asbestos Site:</p> <ul style="list-style-type: none"> • George stated that with Jinn's assistance, we made 2 FOIA requests about 5 months ago. He will be taking a detailed look at the information resulting from these FOIA requests.

	<p>Action Item - Resolution, Effective Date, Property Evaluation Notification (PEN) Regulation:</p> <ul style="list-style-type: none">• George reminded the Board that they approved the PEN Regulation on March 11th. This regulation has been reviewed by EPA, DEQ and their consultants. One provision was a deferment to become effective at a later date because we were not formally in the O&M period. This document is deeply embedded in ICAP and the O&M workplan. It is what Virginia and the ARP have been working under. He is asking for a resolution to make the regulation effective February 1. There is no reason to defer on this any longer.• Jim asked if the document can be changed in the future if it is unworkable for any reason. George answered that it can be changed, with the understanding that it is embedded in other documents.• George motioned to approve, Deb seconded. Unanimous approval. <p>Action Item - Appointment of Liaisons for Superfund Area:</p> <ul style="list-style-type: none">• George informed the BOH that last Wednesday the commissioners moved the ARP from the BOH to the commissioners. George was appointed to be superfund advisor to this board. Because Mark and George have left the BOH and they were the focus area liaisons under operating procedure #1, George is recommending that the BOH appoint replacements. He suggests Laura and Jim because they represent Libby and Troy.• Laura asked what the liaison position entails. George said that things have tapered off a lot, but he BOH remains responsible for ICs.• Jim and Laura Sarah asked to table this topic until February so they could have time to discuss with George. Board agreed.• George stated that in this community, asbestos exposure has killed approximately 400 people and 3000 are afflicted with ARD. There were 40 deaths in 2020 where ARD was a major contributor and in 50% of those deaths, asbestosis was the main contributor. Covid was a factor in four of the deaths. <p>Groundwater Site:</p> <ul style="list-style-type: none">• No update.	<p>Kathi will add signed resolution and regulation to website.</p> <p>Include on February agenda.</p>
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<p>6. City Representative Reports</p>	<ul style="list-style-type: none"> • Laura has no update from Libby. • Jim has no update from Troy. • Deb has no update from Eureka. 	
<p>7. Health Officer Report</p>	<ul style="list-style-type: none"> • Dr. Black stated that we are now concentrating on the biggest health crisis of our lifetimes, but thanks George for his reminder and follow through on asbestos. He stated that this meeting was remarkable and thanks the applicants and everybody who attended for the positive experience. Dr. Black supports Governor Gianforte’s new directive which is effective on Friday. Now we need to focus on vaccines. A lot of the people who are hesitant on vaccines want to wait and see. 74,000 people participated in Pfizer and Moderna vaccine trials. Dr. Black asks BOH to become ambassadors of vaccination, which are the only way for us to get back to normal. Studies show how safe and effective those vaccines are. • Deb wants to use caution on vaccine. She stated that there has only been two months of trials when most vaccines take 10-20 years. Also she stated that people can be reinfected. She requests active reporting plans for side effects that people might be having. She doesn’t think that vaccines are the answer. Caution would be prudent and appreciated by the community. • Dr. Black suggested that Deb read the vaccine studies. Continued studies will provide more data on longevity and effectiveness of protection from the vaccine. Vaccination is the only method in public health that has really stopped the spread of disease. • Deb states she actually has read the studies and the problem isn’t with efficacy, it’s the amount of time they’ve been studied for side effects. • Jenn provided information on V Safe, which is an optional program and an exciting way to track the safety and efficacy of the Covid vaccine on a large scale. • Deb hopes we can encourage people to enroll in that. 	
<p>8. Old Business</p>	<p>Action Item – Proposed Update to Operating Procedure #2</p> <ul style="list-style-type: none"> • Postponed to next BOH Meeting Agenda. 	<p>Include on February agenda</p>
<p>9. Public Comment</p>	<ul style="list-style-type: none"> • Jim asked to bring up the grading system that he recommended at the last meeting. He brought it up for ideas and comments. People should be able to share ideas without being called names, etc. He has decided to withdraw the suggestion. He also discussed proper mask use, mask must cover nose and mouth. He stated that he will continue to 	

	<p>base his decisions on science.</p> <p>Public Comments</p> <ul style="list-style-type: none"> • DC Orr stated that Deb asked questions and Dr. Black recommended that she read vaccine studies. BOH should have recommended that Dr. Black give a presentation on vaccines so people can make informed decisions. Board members should be familiar with by-laws, Montana code, open meeting laws, Board Member Handbook. Objected to Jim Siefert's stated idea that anyone who don't wear a mask don't care about the community. • Trista provided her e-mail (tgilmore@libby.org) and invited people to e-mail her with vaccine questions. There is a big distinction between Moderna and Pfizer vaccines. mRNA studies have been going on for over a decade. CDC has amazing resources. • Diane Watson questioned when agenda and minutes are posted. It does not make sense to her that questions must be submitted 7 days in advance, but the agenda is posted at least 48 hours in advance. Josh explained 2 separate issues: 7 days is for general questions, but that written questions must be submitted 7 days in advance to determine agenda. But questions on agenda topics can be submitted any time and during public comment. Diane prefers Scott for Eureka rep because he is local and the only one to mention supplements. 	
<p>10. Adjournment</p>	<p>Laura made the motion to adjourn, Sara seconded. Motion passed unanimously. Meeting adjourned at 8:56 PM. Next meeting February 9 at 6:00 PM.</p>	

Chair, Board of Health

Date

Secretary, Board of Health

Date

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.

Cooperative Agreement

Between
Montana Department of Public Health and Human Services
And
Board of Health

Identity of Parties and Purpose Statement

This Cooperative Agreement (Agreement) is between the Montana Department of Public Health and Human Services (DPHHS), and the Lincoln County Board of Health (BOH).

The purpose of this Agreement is to establish a payment schedule for maximizing the disbursement of funds to the BOH to support inspections of licensed establishments and to determine which optional programs the BOH will conduct.

A failure to sign this agreement may result in the inability of a local health jurisdiction to maximize funding. Each completed inspection will result in a payment equal to the license fee or the portion of that fee designated in the applicable statute.

Period of Performance and Termination of this Cooperative Agreement

This Cooperative Agreement is effective from **January 1, 2021 through December 31, 2021** and cannot be terminated except by written notification from one of the parties with a minimum of 30-day notice. This agreement may not be extended.

Sole Agreement

This is the only Agreement between the parties with respect to payments for inspections for licensed establishments. This Agreement replaces any previous Cooperative Agreement(s) entered into by the parties with respect to payments and responsibilities for inspections of public establishments as defined in this agreement.

Alterations or Amendments

The parties may amend this Cooperative Agreement by mutual agreement. Any amendment is effective only when in writing and signed by both parties.

Responsibilities of the parties:

The BOH agrees:

1. To inspect the following types of licensed establishments within its jurisdiction on an annual or more frequent basis as described below:
 - a) Inspections required to be performed by local health jurisdictions
 - i. Retail Food Establishments

- ii. Wholesale Food Establishments
 - iii. Trailer Courts & Campgrounds
 - iv. Public Accommodation (see 2a for exceptions)
- b) The BOH agrees to conduct the following activities (please check all that apply):
- i. Pools, Spas and Other Water Feature Inspections – Seasonal establishments must be inspected once per calendar year. Year-round establishments must have one full facility inspection and one critical point inspection conducted per year.
 - Yes
 - No
 - ii. Body Art Establishment Inspections
 - Yes
 - No
 - iii. Body Art Establishment Plan Review
 - Yes
 - No
 - iv. Peer to Peer Inspector Training (see Appendix Band Table 3)
 - Yes
 - No
 - v. Perform joint wholesale food establishment food processing and product labeling reviews with the department.
 - Yes
 - No
- c) If the BOH chooses not to perform inspections and/or plan or process reviews of pools, spas, and other water features, wholesale food establishments, or body art facilities, they will be conducted by the Department or its designee. A designee may include a neighboring county under contract with the Department.
- d) If the BOH opts out of Pool and Body Art inspections, the BOH gives DPHHS the authority to sign Pool, Spa, and Body Art licenses for the county.
- e) If the BOH opts into Peer to Peer Inspector Training, they agree to have Trainers host a trainee, travel to the trainee's county, or a combination of the two, to perform routine inspections of licensed establishments (See Appendix B and Table 3). Only DPHHS-standardized or FDA-standardized inspectors may provide the Peer to Peer inspections of retail food establishments. Opting into this program means that you are only obligated to assist counties as time allows. It does not mean that you are expected to prioritize neighboring county trainings over your own.

2. To inspect public sleeping accommodations within its jurisdiction as follows:

- a) Inspect each hotel, motel, rooming house/boarding house/hostel before initial license validation, upon complaint, and routinely inspect at least once annually;

- b) Inspect each bed & breakfast and tourist/vacation home/condominium before initial license validation and upon complaint;
 - c) Complete follow-up inspections as determined necessary by the sanitarian; and
 - d) Make a reasonable effort to license all operating establishments, including tourist homes.
3. Inspections of licensed establishments must be performed by the local health officer, sanitarian, or sanitarian-in-training;
 4. To enter inspection dates into the Department's database, after inspection or within two weeks after the end of each quarter;
 5. A minimum of one person in the County will obtain access to the Department's licensing database, receive training, and enter the date and name of person performing each inspection;
 6. On a minimum of a quarterly basis, to notify the Department of any status changes to establishment licenses (i.e. out of business; change of ownership);
 7. To provide copies of inspection reports to the Department for auditing purposes, upon request;
 8. To notify the Department when a sanitarian or the BOH takes enforcement action that may impact a license; and
 9. To be eligible for payment from the Local Board Inspection Fund (LBIF), the County must maintain a functioning local board of health as required by Title 50 of the Montana Code Annotated.
 10. Due to the ongoing COVID-19 pandemic the BOH may utilize alternative site visits in lieu of traditional inspections as detailed in Appendix C for the duration of the emergency declaration. The provisions of Appendix C may also be used in the event of a local emergency declaration or restriction by local government limiting field work or travel.

The Department agrees:

1. To pay the percentage required by statute of each licensing fee received by the Department into a Local Board Inspection Fund. Fees paid into the fund will be collected from licensees of retail food establishments, wholesale food establishments, public accommodations, trailer courts and campgrounds, and, if applicable, body art establishments (see Table 2), pools, spas, and other water features;
2. To pay the BOH the license fee or fees associated with an establishment from the local board inspection fund, so long as the licensed establishment is inspected or

reported as permanently closed and the license fee or fees have been paid by the establishment, or if the provisions in Appendix C are met and a quarterly report is submitted describing site visits or COVID-19 related activities at licensed establishments;

3. If the BOH inspects licensed establishments in program categories covered by this agreement before the end of the licensure year, payment from the Local Board Inspection Fund will be made at the rates according to statute using the payment schedule in Table 1. Payment rules to be applied to the percentages can be found in Appendix A;
4. To provide copies of plan review correspondence to the county sanitarian;
5. The amount available from the local board inspection fund is solely dependent upon fees paid by licensed establishments within the relevant jurisdiction. The percentage paid to the BOH under the schedule is intended to be a percentage of the actual amount available in that fund based on amounts paid in from licensees. Under no circumstances will the Department be obligated to pay an amount larger than has been paid into the Local Board Inspection Fund. Payment is also dependent on statutory authority available to the State to make payments from the Local Board Inspection Fund;
6. To provide training, education, technical assistance and information to staff of local board of health;
7. To maintain a record of inspections submitted by the staff of the local board of health as required in rule; and
8. To provide analytical support through the Laboratory Services Bureau to the BOH's environmental health program regarding food safety. When necessary, support to environmental health programs may include food and environmental sampling for *Salmonella*, *Listeria*, and Shiga-toxin producing *E.coli*, along with clinical (human) testing for the analytes listed in the [public health laboratory manual](#).

The laboratory maintains and provides sample collection kits and technical support when food or water samples need to be collected and tested for contamination. This includes food sampling kits and drinking water emergency sampling supplies. Examples include assisting with *Listeria* swabbing or collecting and shipping samples of food for *Salmonella* or *E.coli* analysis.

The Laboratory Services Bureau is certified by Region 8 of the EPA and can provide water analysis for pesticides, herbicides, volatile organics, industrial chemicals, nutrients, enteric bacteria, oxygen demand, metals, mercury, as well as lead in paint and dust wipes. The laboratory not only tests drinking water, but also wastewater, groundwater, sediment, solid wastes, and plant and fish tissues.

In an outbreak or emergency where the Department cannot provide laboratory support through the Laboratory Services Bureau, it will work closely with relevant regulatory agencies and their laboratories including the CDC, FDA, and USDA.

Table 1: Payment Schedule- Applies to Retail Food Establishments; Wholesale Food Establishments; Public Accommodations (except Tourist Homes and Bed & Breakfasts *see note) Trailer Courts/Campgrounds; Body Art Establishments; Pools, Spas and Other Water Features (if applicable):

Percent of Licensed Establishments Inspected by the County during the licensure year	LBIF Disbursement by Percentage
90% - 100%	100% (of paid licenses)
< 90%	1 Payment per Paid License per Inspection

* Note: All license fees for Tourist Homes and Bed & Breakfast will be paid annually to the county and are not subject to Table 1.

Table 2: License fees reimbursed to counties performing inspections of Body Art Establishments:

License type	License fee	Reimbursement per inspection
Tattooing	\$135	\$121.50 (90%)
Body Piercing	\$135	\$121.50 (90%)
Ear lobe piercing only	\$75	\$67.50 (90%)

Table 3: Peer to Peer Inspector training: Counties will be reimbursed for mileage, meals and lodging for their employees who may be either trainers or trainees and travel outside of their home counties for the purpose of peer to peer training. Counties who host a trainee will also be given an additional \$50 per training inspection. Please note that opting into this portion of the cooperative agreement does not obligate you to provide this service. Peer to peer trainings will only be done when both counties have time (See Appendix B).

Lodging*	State Rate (Approx. \$96/Night)
Meals	Up to \$30.50 Per day
Mileage	\$0.279 Per mile

Additional Inspection Reimbursement	\$50.00 Per Inspection
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* Note: Lodging will be reimbursed at the state rate unless preauthorization is granted by DPHHS; every attempt should be made to obtain state rates.

Both parties agree that:

1. The responsibilities of the parties are governed by the Montana Code Annotated and the Administrative Rules of Montana and nothing in this agreement is intended to contradict or supplant relevant provisions of the laws of Montana; and
2. The following process is to be used in the event of a disagreement between the BOH and the Food & Consumer Safety Section (FCSS) about the terms of this agreement.
 - a. If the BOH is unable to resolve their disagreement with FCSS, a written notification from the BOH must be provided to the Communicable Disease Control and Prevention Bureau Chief. The BOH shall provide in writing specific details about the remaining issues that are in dispute. The Bureau Chief shall attempt to resolve the dispute. If unable to resolve the dispute, the reasons for the department's position on the issues in dispute must be presented to the BOH in writing.
 - b. If resolution of the disagreement is not obtained, the BOH may request a review and written determination to be made by the Public Health and Safety Division Administrator.
 - c. The decision of the Division Administrator may be appealed to the Department Director, whose decision is final.

Liaisons:

These persons serve as the primary contacts between the parties regarding the performance of the task order.

1. Ed Evanson is the liaison for DPHHS (phone: 406-444-5309)
2. Liaison for the BOH: Kathi Hooper 406-283-2440
(Print name and title)

For: Montana Department of Public Health and Human Services

Signature: _____

Printed name and title: Jim Murphy, Division Administrator

Date: _____

For: Lincoln **County Board of Health**

Signature: _____

Printed name and title: _____

Date: _____

Please mail signed Agreement to:

Ed Evanson, Supervisor
DPHHS-Food & Consumer Safety Section
P.O. Box 202951
Helena MT 59620-2951

Appendix A:

Payment Rules for Licensed Establishments

The following scenarios describe how credit for an inspection will be applied to the percentage described in Table 1 of this Agreement. Any scenarios not covered by these business rules will be evaluated on a case by case basis.

Scenario	License Fee(s) paid	Inspection(s) completed	Credit(s) toward percentage
1	License fee paid	1 or more inspection(s) completed	1 credit toward percentage
2	License fee paid	0 inspections completed	0 credit toward percentage
3	License fee paid	0 inspection completed due to business closing	1 credit toward percentage
4	0 fees paid	0 inspections completed	0 credit toward percentage
5	2 license fees paid on 1 establishment due to change in ownership	2 inspections performed because of change in ownership	2 credits toward percentage
6	2 license fees paid on 1 establishment due to change in ownership	1 inspection performed	1 credit toward percentage
7	License fee paid for pool or spa operated throughout the year	1 full facility and 1 critical point inspection performed	1 credit toward percentage
8	License fee paid for seasonal pool or spa	1 full facility inspection performed	1 credit toward percentage

Appendix B:

Peer to Peer Inspector Training

One of the tasks of Food and Consumer Safety is to provide or facilitate training to ensure consistent, high quality inspections across the state. Joint inspections with experienced county inspectors are one way to accomplish that. To minimize the impact to county budgets, Food and Consumer Safety will fund peer to peer inspection training up to \$10,000 per year (allocated total for the entire state).

These funds are available on a first-come, first-serve basis for counties with a new inspector, or an inspector needing additional training in a certain type of inspection or inspection components outside of previous training. This may be a Sanitarian in Training (SIT) or is a sanitarian that is moving into inspection types with which they have limited experience.

Training will be provided at the discretion of the counties. If a county opts into this program but time and/or resources change the county is not obligated to host training or send a trainer to a neighboring county.

Minimum requirements for trainers:

1. Currently employed by a county and determined by FCS to be qualified to provide training;

The following applies to food inspections:

a. Trainers must be standardized in food inspections by the State Standard or FDA Standard.

b. Minimum Facility Requirements

1. Risk Level 2, 3, or 4

c. Inspections by Risk Level (see Annex 5, Table 1 of the 2013 Food Code)

1. Risk Level 2 - no more than 3 inspections

2. Risk Level 3 or 4 - up to 12 inspections

3. If possible, facilities should include

- a. retail processing,

- b. HACCP, and

- c. Molluscan shellfish sales or service

4. FCS currently does not have plans to approve more than 15 Peer to Peer inspections at a time.

Reimbursement:

1. Trainers may host the trainee and/or travel to the trainee's county to perform inspections.
2. Reimbursement to the county for mileage, meals and lodging for either trainers or trainees who travel outside of their jurisdiction.
3. An additional \$50 per inspection for a county hosting a trainee, due to the additional amount of time required for training.

Projected Reimbursement per training:

Lodging	State Rate (Currently \$96/night)	x5 nights	\$480.00
Meals	\$30.50/day	x5 days	\$152.50
Mileage	\$0.279/mile	x400 miles	<u>\$111.60</u>
		Total travel	\$744.10
Additional inspection reimbursement			
	\$50.00/inspection	x15	<u>\$750.00</u>
Total per sanitarian trained			\$1494.10

All peer to peer training must be pre-approved by FCS. To receive pre-approval, send the section the following information:

- 1) The training inspector
- 2) The trainee
- 3) The establishments to be visited with the risk categories
- 4) The number of days and nights spent training
- 5) The projected lodging cost
- 6) The projected mileage cost

Appendix C

Appendix C does not modify the inspection types being conducted by the Local Health Board. Jurisdictions that have already opted into body art and/or pool inspections will maintain that responsibility for the remainder of 2021.

Reimbursements during a period of emergency, or order resulting in restriction of travel at either the local or state level will be based on two metrics – the number of traditional inspections and the amount of virtual site visits or COVID-19-related work that a jurisdiction completes.

- If a jurisdiction did not engage licensed establishments in COVID-19 related activities, then they will be paid at the rates agreed upon in the 2021 cooperative agreement.
- Regardless of the number of traditional inspections completed, local Health Boards will be reimbursed 100% of the Local Board Inspection Fund (LBIF) available for their jurisdiction, if they document that they made reasonable efforts to complete facility inspections as time, resources and COVID-19 related conditions allowed, and the time typically spent on inspections was diverted to COVID-19 related activities as described below.

Traditional Inspections

Traditional facility inspections must be documented through entry into the licensing database. Reasonable efforts must be made to conduct traditional facility inspections whenever possible. In situations where completion of traditional facility inspections is not possible, jurisdictions should:

- focus inspections on high risk behaviors and issues,
- prioritize inspections of higher risk facilities,
- investigate complaints about licensed establishments,

- attempt virtual site visits or consultations.

COVID-19 related work

COVID-19 related work must be documented by providing a quarterly report as described below. The Local Board Inspection Fund will be disbursed to jurisdictions on a quarterly basis for up to 100% available quarterly funding after providing a quarterly report to the Department. Upon receipt of all quarterly reports for 2021 any remaining funds available to the jurisdiction will be disbursed at the end of the licensing year.

Quarterly reports must document the following:

- Commitment to protecting their communities from the spread of COVID-19 by:
 - providing outreach and education to licensed establishments regarding how to implement best practices for prevention of virus spread in their establishments,
 - conducting on-site, virtual site visits, or consultations with licensed establishments, as needed, to ensure that state and local requirements are being followed,
 - responding to complaints regarding violations of the state or local requirements, and/or
 - creating and/or distributing guidance to licensed establishment operators.

Quarterly reports documenting COVID-19 related outreach and reimbursement will be kept on file at DPHHS and made available upon request.

The combined reimbursement for inspections and COVID-19 related activities shall not exceed the total amount of licensing fee money available in the LBIF for 2021 in any jurisdiction.