

**SEWAGE, WASTEWATER, AND SANITATION HEARING BOARD
MEETING MINUTES EXCERPT**

Members

Ronald J. Anderson, P.E., Chair
Steven H. Brigman, P.E., Vice Chair
Michele C. Dennis, P.E.
Matthew Buehler
Vonnie Fundin

Thursday, March 10, 2016

6:00 p.m.

**Washoe County Administration Complex
Health District South Conference Room
1001 East Ninth Street
Reno, NV**

6:00 p.m.

1. *Roll Call and Determination of Quorum

Chair Anderson called the meeting to order at 6:00 p.m.

The following members and staff were present:

Members present: Ronald J. Anderson, P.E., Chair
Steven H. Brigman, P.E., Vice Chair
Michele C. Dennis, P.E.
Matthew Buehler (arrived at 6:12 p.m.)

Members absent: Vonnie Fundin

Ms. Spinola verified a quorum was present.

2. *Public Comment

As there was no one wishing to speak, Chair Anderson closed the public comment period.

3. Approval of Draft Minutes

February 11, 2016

Ms. Dennis moved to accept the minutes of the February 11, 2016 Sewage, Wastewater, & Sanitation Board (SWS Board) regular meeting as written. Chair Anderson seconded the motion which was approved three in favor and none against.

4. Program update and possible direction to staff regarding Board member's preference for receipt of information outlining the progress of the planned rewrite and update of the District Board of Health Regulations governing Sewage, Wastewater and Sanitation (SWS) and also the planned rewrite and update of the District Board of Health Regulations governing Wells
Staff Representative: Jim English

Mr. English presented the staff report. He noted the last meeting held prior to February, 2016 had been in August, 2013. The regulations state a meeting must be held monthly, unless there are no actionable items to be heard.

Mr. English explained that staff has been directed to rewrite the SWS regulations, and the regulations concerning domestic wells will also be reviewed and updated. Based on the

infrequency of SWS Board meetings, staff was requesting direction on how the Board would like to receive information and updates during the process. The methodology that will be utilized is new, as the regulations will be developed jointly in collaboration with the public sector.

Mr. English noted the required makeup of the Board caused its own challenges. The regulations state there must be an attorney on the Board, and Mr. English opined that may not be necessary as a Deputy District Attorney (DDA) currently attends every meeting.

Mr. English went on to state that since the Board meets so infrequently, it was questioned whether or not it would make sense to disband it. He acknowledged they were the experts, and if it were disbanded, the decisions would be left to the District Board of Health (DBOH), who are not trained and experienced in the field. He requested input from the Board on that topic as well.

Chair Anderson pointed out the Board was intended to be an asset to staff and potentially numerous stakeholders, depending on the project. He noted the workshop meeting held last week to build consensus for the new regulations was a good first step. He expressed disappointment that the Board members had not been notified of the meeting. He noted he had substantial input for the new regulations.

Chair Anderson noted he had spoken with three fellow engineers who were willing to serve on the Board. Additionally he was acquainted with some retired attorneys who might be interested in joining.

Chair Anderson opined commercial onsite wastewater systems should fall under the jurisdiction of Washoe County.

Chair Anderson finalized his comments by stating he felt the Board's expertise would become even more critical going forward, because the properties that went undeveloped during the recession are less than ideal for building. He opined if commercial systems did come back into Washoe County's jurisdiction, the expertise should be greater. Vice Chair Brigman concurred.

Ms. Dennis indicated she would be pleased to participate in the update of the regulations and that as they had been reviewed and rewritten over the years; substantial public input had been sought and incorporated. She supported Chair Anderson's statements regarding increasing amounts of development and the need for the Board member's expertise, as they had met more often and made decisions regarding complex system designs during busy construction periods in the past. She pointed out the attorneys on the Board had been instrumental in making sure that everyone's rights were considered during discussions, so finding someone in that position for the Board is critical.

Vice Chair Brigman noted that when he had joined the Board, they met regularly and every meeting contained two or three cases. The housing collapse dramatically affected the need to meet and the number of meetings held. He discussed a case that should have been discussed by the Board but was not. He noted regulation changes in the past had resulted in long meetings, and the Board may be able to lighten staff's load by deflecting some of the comments from the public.

Ms. Dennis pointed out that the Board acted on a volunteer basis and they appreciated the fact that the public was willing to attend the evening meetings and provide testimony. She stated they were dedicated to ensuring that the community is served in the best way possible.

Mr. English stated he fully understood, and that was his reason for bringing the item to the Board. He asked DDA Admirand if it would cause a quorum issue if the Board members attended the bi-monthly workshops and she stated it would. If a quorum is present at any meeting or workshop regarding an issue they will ultimately be making a decision on, that

implicates Open Meeting Law, so noticing requirements must be adhered to. Ms. Dennis suggested the posting of the notice of the meeting may alert interested parties that would otherwise not be aware of it.

Chair Anderson stated he emphasized with staff regarding the pressure placed on them by outside parties. He opined that may be able to be lessened to some degree through the support of the Board.

Ms. Dennis thanked staff for the opportunity to discuss the topic. Mr. English stated it was the type of feedback he was looking for, as it provided him the guidance he needed to guide the rewrite process.

Mr. English explained he had spoken to the DBOH regarding the vacancies on the SWS Board and they had directed staff to conduct outreach activities. Over the past few years, significant outreach efforts had yielded limited success, so he welcomed the Board's assistance.

Chair Anderson offered to provide contact information regarding the three engineers noted earlier and asked if it was appropriate to discuss their merits. DDA Admirand advised against it as it was outside of the scope of the agenda item.

Vice Chair Brigman stated that in answer to the question about how the Board would like to receive updates regarding the regulation rewrite process, he would like to see a draft of all of the proposed changes, more than just a couple of days in advance of a meeting, so the changes could be discussed.

Mr. English stated the draft of the changes could be presented well in advance of a meeting or workshop. He asked the Board if there were any contentious or technical issues that they would like to see or be involved in ahead of time. Chair Anderson stated they would, and Ms. Dennis expounded that the Board could provide guidance and direction on how to proceed. Mr. English noted he would work with legal and his director regarding noticing the upcoming scheduled meetings.

Mr. English noted he had anticipated the Board would request quarterly updates, or would want to meet more or less frequently.

Vice Chair Brigman asked what the anticipated timeline would be. Mr. English explained they had been directed to make it happen as quickly as possible, and noted some special considerations that may take some time. Vice Chair Brigman suggested extra effort be made to get an attorney on the Board and noted some of the enforcement issues may cause challenges at the public hearing.

Vice Chair Brigman moved to direct staff to provide a minimum of 30 days advance notification of proposed amendments, changes and additions to the regulations that will be discussed at a meeting.

Ms. Dennis requested that the Board be included in any opportunity to participate in any discussions regarding regulation changes. Additionally, she requested staff provide the Board members with a current set of current, proposed revised regulations and provide them with the opportunity to participate in any ongoing and continuing discussions whether it is during a noticed public meeting forum or informally if there is a group that wishes to gather to discuss a particular regulations and one of the Board members has expertise in that area. She would direct that they were continually provided the opportunity to participate and provide input on changes, particularly in regards to the difficult lots.

DDA Admirand asked Vice Chair Brigman if he accepted the amendments to his motion and he stated he did. Chair Anderson seconded the motion which was approved

four in favor and none against.

- 5. Public Hearing** to consider staff's recommendation to approve the request to vary the requirements of Section 120.075 of the Washoe County District Board of Health Regulations Governing Sewage, Wastewater, & Sanitation – Minimum lot size for on-site septic. (Continued from February 11, 2016 meeting.)

Staff Representative: Wes Rubio

Variance Case #1-16S

Mr. John Lindberg

20957 Eaton Rd.

Reno, NV 89521

Assessor's Parcel Number 045-337-11

Parcel 2, Block D

Pleasant Valley Estates

Washoe County, NV

Mr. Rubio noted the incorrect staff report had been included in the packet and passed out an updated version to the members. He noted he had worked to include all of the information the Board had requested at the previous meeting. The packet included a plot plan designating currently existing infrastructure as well as what was proposed. Also included were photos of the lot, providing a better picture of actual conditions.

Mr. Rubio explained the existing system had been located by a septic company and he reviewed its specifications. Since the installation of the system, the Mother-In-Law (MIL) unit had been constructed. To support that structure, a 50-gallon lift station was installed that the Building Department is allowing to remain. The lift station contains a grinder pump. The Health District does not consider this structure equivalent to a septic tank.

Mr. Rubio went on to explain the existing septic tank sizing was determined to be adequate for the original structure. The MIL unit would require a separate septic tank, necessitating a leach line expansion for the entire system.

Mr. Rubio noted an engineer had not been involved due to the fact one is not required based on the type of plan that was being reviewed. It was not an engineered or changed design, groundwater was not a concern and there are already 13-foot trenches on the lot. Staff calculated the percolation (perc) rate and size requirements as is done routinely with larger properties.

Mr. Rubio addressed the question regarding the repair field and the average slope across the lot, noting he had visited the site and taken the photos. He described the best potential location and how it would meet requirements. He noted the existing plumbing runs underneath and connects into the main structure. It would be possible but not optimal to run long leach lines across the yard but the second septic was a more viable solution.

Chair Anderson noted he had procedural and regulatory comments as he had identified the regulations he considered pertinent. He noted the Variance application provided an opportunity to list the regulations that are requested to be varied. Ms. Dennis opined that provided the Board the opportunity to make motions on the specific items.

Chair Anderson listed the regulations to be varied, which included Sections 040.006, 040.020, 040.100, 090.025 and 090.095, and briefly addressed the specific topics they covered. He reiterated that the inclusion of those in the application would help streamline the review and motion. He also noted that Section 120.075 supported the lot size limitation.

Chair Anderson went on to note that Section 170.045, describing the variance process,

provided a list of items required to be submitted with the application, which he reviewed. He emphasized he was not attempting to state that the situation was dire and structures would need to be removed. He suggested more design detail would help in the decision process.

Ms. Dennis supported Chair Anderson's statements, echoing that they were not attempting to concern the property owner. She opined that if there were an Attorney on the Board, that individual would help guide them through the process of clearly identifying and making a motion on what was being varied. She noted if it were to be reviewed in the future, the Board needed to be sure they had clearly identified specifically what was to be varied, and have an understanding of why they were granting the variance.

Chair Anderson opined the application did not meet the requirements of the regulation and suggested it may be necessary to continue the meeting. He suggested the supplemental information required by the regulations needed to be included in the application.

Mr. Rubio noted he had discussed the lift station with the division director. Policy has been that they are considered part of the building's infrastructure, and not something the Health District would require be installed.

Vice Chair Brigman acknowledged procedural issues were under discussion and the issues were on the record. He indicated he would prefer they find a way to not have to continue the decision to another meeting. He agreed that in the past, all of the regulations noted would have been identified, and they were really only being asked to vary one section, which was Section 120.075. He noted staff had reviewed the situation closely and were comfortable with the proposed plan.

Chair Anderson asked for more information about the line that ran through the house. Applicant's Representative Ron Cohen explained it was part of the main residence's sewer system and was fabricated from ABS. He explained where the pipes for the existing system were located and that the end of the run, under the slab, was through exposed pipe.

Ms. Dennis suggested the Board may be willing to make a motion once each of the regulations identified were addressed as to why they should be varied.

Vice Chair Brigman asked Deputy District Attorney (DDA) Admirand what the Board's duty was if they did not believe that all of the appropriate citations in the regulations had been addressed in the application. DDA Admirand explained that the regulations required that all of that information be considered in the application, and the application is not complete until the information is provided. She opined if the information was made available to the Board and they had enough evidence to make the required findings of no significant or adverse impacts, then a continuance would not be mandatory.

Vice Chair Brigman asked if there was anything specific in the regulations that had been listed that were causing Chair Anderson concern. Chair Anderson indicated he had received a satisfactory answer to his question about the lift station. He reiterated the situation was not dire; he was concerned that the regulatory process being followed may cause problems with cases in the future. Vice Chair Brigman acknowledged it was precedent-setting, and stated that if another, similar case were presented, he would be requesting more information from staff in advance of the meeting. He suggested similar situations be addressed when the regulations were rewritten so that they could be avoided in the future.

Vice Chair Brigman reiterated he did not wish to see the decision held up any longer because of procedural issues. He noted staff was comfortable with the proposed solution presented and he was also.

Mr. Rubio noted he had rewritten the conditions of approval and opined the new

language may alleviate concerns. He read Condition 1, stating:

1. Complete the installation of the proposed septic tank and the additional leach line as required. The Certificate of Occupancy will be held until the installation has been inspected and meets all requirements of the Health District.

Mr. Rubio reminded the Board the Health District conducts a number of inspections, so any necessary modifications can be made as the trench is dug.

2. The plan will be approved and conditioned with the following language:
 - a. This plan is approved for a 3-bed SFD and a separate Second Dwelling Unit. Any future proposals for an increase in occupancy (bedrooms) may require additional septic system installation and an engineered design.

Mr. Rubio stated that condition had been included specifically to address the concern that the lot is mostly built out.

- b. Any future proposals for additional bedrooms and increase in the septic system design may require a variance approval through the Sewage, Wastewater, and Sanitation board as described in the WCHD SWS regulations.

Mr. Rubio explained he had added that condition due to the fact that it was most likely that any additional construction on the lot would require some type of review by the SWS Board.

3. The approved plan and variance approval will be required to be recorded to the Title Documents for this parcel to ensure proper public records notification in the event the property is sold to any other party.

Mr. Rubio stated this step would help to avert any similar problems with this property in the future.

Ms. Dennis noted that even if this were a new installation, she would have the same hesitations with the proposed installations. She requested the Conditions of Approval be rewritten to indicate that future proposals would require additional review as opposed to may require additional review. She also requested more information about the lift station. Mr. Cohen described some of its technical aspects. He stated it was alarmed.

Applicant John Lindberg thanked the Board for their time. He explained he had purchased the property in its current condition and had been working to legalize the illegal improvements since that time. He complimented Mr. Rubio and Mr. English on the work they had done to assist him in the process.

Chair Anderson asked if a critical deadline was dependent on their approval and Mr. Lindberg stated there was not, but he would like to put it behind him. He then noted there were pending legal issues, so that meant that there was a time restraint after all, as the outcome was part of the lawsuit. Mr. Cohen pointed out if the MIL unit was not able to be legalized there would be monetary impacts.

Vice Chair Brigman stated he would be willing to make a motion if there were no more questions. Chair Anderson reiterated he was uncomfortable with it, stating he typically would not sign off on a plan such as the one proposed, particularly if there were legal issues. He opined there were likely not any personal exposure issues that would affect them. He asked if they were covered by a general liability.

DDA Admirand opined they would be. She noted she had been unaware of the legal issue. She stated if Chair Anderson was uncomfortable because he felt the Board needed more information, they could continue the hearing.

Ms. Dennis opined none of the Board members would support the proposed design if it were one of their projects. She stated she found it refreshing that staff was willing to work with someone who had a problem and had brought the variance forward. She reiterated it was important that the Board know exactly what was being requested to be varied. She suggested going through the Findings of Fact may help them determine if the Board has the information it needs to address their concerns.

Mr. Rubio read the first Findings of Fact and reviewed the replies.

1. Will the proposed variance result in contamination of water to the extent it cannot be used for its existing or expected use?

Reply: There will be no contamination of water that would be a threat to the existing or expected uses. A review of the surrounding parcels and on-site evaluation does not indicate the presence of groundwater within 4 feet of the bottom of the existing leach line or the proposed leach line installation. Additionally, there does not appear to be any signs of surface water, drainages, or other potential sources of water contamination present on this parcel or in the immediate area. An inspection of this area indicates this parcel is up gradient from the valley floor and is outside of the flood plain.

Mr. Rubio stated he has visited the site and verified that there were no potential threats and the system showed no sign of failures. The property is on a hillside and is away from groundwater. Vice Chair Brigman asked him to expound on his certainty that there was no groundwater within four feet of the bottom of the existing system. Mr. Rubio explained he utilized the digitized mapping system to analyze systems installed in the area, and that he has conducted trenching there as well. He reiterated no groundwater had been identified or recorded on the hillside.

Vice Chair Brigman stated he would have had a trench dug. He stated he understood how they arrived at their calculations but suggested erring on the side of caution. He indicated he was willing to accept staff's statements.

Ms. Dennis asked if the well water had been tested. Mr. Lindberg stated that had been done when they purchased the house and it was fine. Mr. Rubio noted the Health District did not regulate domestic well, so staff had not seen the results. Ms. Dennis suggested that as part of the application, the water might have been tested to verify that there was no contamination. She indicated she would be interested in seeing the tests that had been conducted. Mr. Lindberg stated the water contains arsenic but no sewage.

Chair Anderson asked if there had been failures in the area. Mr. Rubio stated there had not been any in the immediate area that the Health District was aware of. Chair Anderson stated he was comfortable with the Findings for Number One.

2. Will the proposed variance pose a threat to public health?

Reply: No, allowing for the existing Second Dwelling to be permitted on this parcel will not impact or pose any threat to public health. The additional septic tank and additional leach line that are required to be installed will further protect the public health and groundwater concerns. Additionally, the sizing utilized as described is conservative and will allow for fluctuations in sewage flow. The lack of sensitive receptors in the immediate vicinity of the existing septic system or the repair location will ensure the system functions properly and does not cause any potential threats to this parcel or those

parcels in the immediate area.

Mr. Rubio reiterated he had visited the site and there were no municipal wells or sensitive receptors in the immediate area. He opined the situation was being improved due to the fact the size of the system was being increased and redesigned. He acknowledged it would not be allowed for a new project.

Chair Anderson noted that in the past, Conditions of Approval have requested items such as water well samples and that the pumping system be checked annually or the tank periodically pumped out and a log maintained. He noted those types of conditions would make him feel better. That would provide additional assurance there was no threat to the groundwater.

Mr. Rubio asked the Board what they would like him to add to the conditions. Chair Anderson suggested a water sample to verify nitrate levels. Vice Chair Brigman noted at this point it was only necessary for it to meet standards. Ms. Dennis asked if Chair Anderson would accept the test that had been conducted at the time of purchase. He stated he would if the nitrate level had been tested.

Chair Anderson pointed out that there will be certification that the system was built to the according to the variance and to the satisfaction of staff. He indicated that the water analysis should be included as part of that certification.

Mr. Rubio summarized the condition, stating the construction would be completed as required, it will be inspected by the Health District and the water analysis submitted. Mr. Cohen requested the condition state that the requirements needed to be fulfilled prior to issuance of permit, rather than prior to issuance of Certificate of Occupancy. Ms. Dennis noted she was interested in making sure that if the water test provided negative results that the remaining requirements and permit issuance would not proceed without further review.

Chair Anderson stated with that condition he could support Finding Number 2. Ms. Dennis requested a drawing of the future repair field showing the cross section and trench detail. Mr. Rubio explained the area to be developed was completely level and he would provide the additional information.

Vice Chair Brigman stated if nitrate was detected that may indicated the need to follow up with further testing in a year. He pointed out there was no nitrate trend records for the property or the surrounding area. Mr. Rubio concurred, adding that staff could not readily go out into the field and conduct the tests.

Ms. Dennis suggested reiterated that if the water analysis results were unsatisfactory, the Board would need to revisit the Findings and discuss alternate solutions.

3. Are there other reasonable alternatives?

Reply: Since the current property owner is seeking to correct conditions that were previously present on this parcel, the Health District is requiring the installation of an additional septic tank and leach line to meet the minimum required sizing and treatment of sewage. The Health District staff believes there are no other reasonable alternatives that allow for this parcel to maintain the current buildings and meet all requirements.

Mr. Rubio explained one issue that is considered is that if a system is on standard trenches, effort is made to maintain that, so that the entire property does not need to be altered.

Ms. Dennis asked if the Board felt that the alternative of making a decision to render the MIL uninhabitable was a reasonable one. Chair Anderson opined there were numerous

design alternatives and whether or not they were reasonable would be defined by cost. He suggested that the language be changed from “reasonable” to “economically feasible.” Mr. Rubio explained staff considered the proposed solution to be the “most” reasonable alternative. He acknowledged that there were other alternatives.

Chair Anderson stated that he would support it if it were reworded that way. Ms. Dennis expounded, suggesting it could be reworded to indicate there were other alternatives but they were not economically feasible. Chair Anderson noted the type of words he would like to see would be “At this time, the Health District believes that there are no other economically feasible solutions...” Ms. Dennis noted that although there may be a better alternative in the future, the Board was approving the current design and would not be asking the homeowner to construct other improvements in the near future.

Mr. Buehler stated he agreed with their concerns but agreed that the proposed solution was the most feasible and reasonable.

Vice Chair Brigman moved to approve Variance Case #1-16S to allow for a variance to Section 120.075, paragraph (1)(c), and those sections noted into the record by the Chair subject to the conditions of approval in the staff report as amended.

Ms. Dennis noted they had revised the Findings of Fact. Vice Chair Brigman stated he agreed to those as well.

DDA Admirand requested the maker of the motion rephrase from “approval” to “recommended approval,” as the final decision rests with the District Board of Health. Vice Chair Brigman indicated his acceptance of the change.

Chair Anderson seconded the motion which passed four in favor and none against.

Findings of Fact

1. Will the proposed variance result in contamination of water to the extent it cannot be used for its existing or expected use?
2. Will the proposed variance pose a threat to public health?
3. Are there other reasonable alternatives?

Reply: Since the current property owner is seeking to correct conditions that were previously present on this parcel, the Health District is requiring the installation of an additional septic tank and leach line to meet the minimum required sizing and treatment of sewage. ~~The Health District staff believes there are no other reasonable alternatives~~ At this time, the Health District believes that there are no other economically feasible solutions that allow for this parcel to maintain the current buildings and meet all requirements.

Conditions of Approval

1. The water analysis obtained when the property was purchased will be provided to the Health District for review prior to permit issuance or further construction. If the results indicated elevated nitrate levels, they will be presented to the SWS Board for further discussion prior to issuance of permit or construction.
2. Complete the installation of the proposed septic tank and the additional leach line as required. ~~The Certificate of Occupancy~~ construction permit will be held until the installation has been inspected and meets all requirements of the Health District.

Documentation submitted to demonstrate compliance with all requirements will include a topographical map showing cross-sections and trench detail.

3. The plan will be approved and conditioned with the following language:
 - a. This plan is approved for a 3-bed SFD and a separate Second Dwelling Unit. Any future proposals for an increase in occupancy (bedrooms) may require additional septic system installation and an engineered design.
 - b. Any future proposals for additional bedrooms and increase in the septic system design ~~may require a variance approval through~~ will require additional review by the Sewage, Wastewater, and Sanitation board as described in the WCHD SWS regulations.
4. The approved plan and variance approval will be required to be recorded to the Title Documents for this parcel to ensure proper public records notification in the event the property is sold to any other party.

6. *Public Comment

As there was no one wishing to speak, Chair Anderson closed the public comment period.

7. Adjournment

At 7:35 p.m., Chair Anderson moved to adjourn the meeting. Vice Chair Brigman seconded the motion which was approved four in favor and none against.

Respectfully submitted,

James English, Environmental Health Specialist Supervisor
Secretary to the Sewage, Wastewater and Sanitation Board

Dawn Spinola, Administrative Secretary
Recording Secretary

Approved by Board in session on _____, 2016.