



# UTAH COUNTY BOARD OF HEALTH

151 SOUTH UNIVERSITY AVENUE  
 PROVO, UTAH 84601

## MINUTES January 28, 2019

Members Present:			
Mayor Jeff Acerson, Chair	X	Teresa Tavares, Vice Chair	X
Gaye L. Ray, RN	X		
Superintendent Rick Nielsen	X		
Dianne C. Carr	X	Commissioner Bill Lee	X
Mark Donaldson, MD	X		

**Others present:**

Ralph L. Clegg, EHS, MPA      UCHD Executive Director  
 Julie Dey                              UCHD Secretary

Number of people in attendance – 8

1. Welcome by Jeff Acerson
2. Approval of the minutes from November 26, 2018

**MOTION:** Teresa Tavares made the motion to approve the minutes which was seconded by Rick Nielsen and passed by unanimous vote.

3. Election of chair and vice chair for 2019

**MOTION:** Dianne Carr nominated Jeff Acerson for board chair which was seconded by Rick Nielsen and passed by unanimous vote.

**MOTION:** Gaye Ray nominated Teresa Tavares for board vice-chair which was seconded by Rick Nielsen and passed by unanimous vote.

4. Adopt for public hearing proposed amendment to Health Regulation 2008-01 Governing the Determination of Groundwater Table Elevation (suggested hearing date and time for the March 25, 2019 Board of Health meeting at 4:00 pm in this location)

Ben Van Noy, Utah County Attorney, explained that the regulation has been amended in the past. The desire with the proposed amendment with the groundwater monitoring is to give citizens options to allow them to meet the groundwater determination requirements in order to build. The current regulation requires one or more years of monitoring in areas with known high ground water levels. We are trying to allow for more options to meet the state monitoring requirement. The amendment that was adopted by the Board of Health in May 2018 did give more options; however, the board asked the attorney's office and environmental health division to look at ways to continue to improve it. Ben went on to explain the changes to the amendment and answered the board member's questions.

Dianne Carr asked, "So the engineer who 'swears', what is the liability if something is not accurate?"

Ben Van Noy answered, "These individuals are licensed experts in their field, so any liability would be shifted to them as the engineer who certified the maximum ground water level. Their license would be on the line which gives them the impetus to do it truthfully. The professional will be making a sworn declaration or affidavit which is punishable under law if they misrepresent the facts."

Commissioner Bill Lee asked, "Is it the bottom of that wastewater system, any part of the wastewater system, or is there a certain point you want to be below?"

Jason Garrett, Bureau Director, Environmental Health, UCHD, explained that the actual bottom of the system is referring to where the gravel would sit upon, and then you would have anywhere from 6" to several feet of gravel in the pipe. So, it is the very bottom of the excavation in native soil. The reality when we talk about this type of system is the conventional system will need to be a shallow system in the areas where we have the groundwater issues. More than likely we are looking at a foot or two into the ground. What we are stating here is that a declaration needs to be made that it is going to be within 48" of whatever depth you are proposing.

Mark Donaldson asked, "If you have a class three system (alternative system) how does that work?"

Jason Garrett indicated the ground water level still needs to be determined. With the regulation amendments we are trying to give more options to establish where that level is going to be. The current regulation gave the option of monitoring groundwater for a year (more if precipitation levels were far below normal). Our intent is to give more options to still meet the intent of the state rule but to be able to move forward. A certified designer can do this or an engineer or someone who can do some modeling.

Ben Van Noy indicated that historical data can be used as well as a professional to determine the groundwater level. The Health Director has the option to modify that based off of certain circumstances on individual lots. In section C we are removing the requirement for Environmental Health inspectors to go out on site and monitor, if a person chooses to use the other options we are amending in.

We recognize in certain circumstances, we will have historical data that says the groundwater level is at a different height than what an engineer may say. We would like to have those individuals who certify that it is below a certain level to take into consideration the studies and historical data and to resolve that conflicting information.

Helina Carter-Thomas, Utah County Citizen, made some comments to the board regarding the amendment. "I am happy to see things moving in a good direction for everyone (Environmental Health and the public and the county in general). There are a couple of things I would like to suggest. Where it says 'an individual licensed in the state of Utah as the engineer who is going to swear by declaration or affidavit to the department stating that they have completed sufficient studies to determine the maximum groundwater table and clearly identify the maximum groundwater table for each individual lot.' I think engineers are going to have a hard time doing that. If you look down where it talks about groundwater monitoring which then would be up to the county, it says, 'these deviations shall be accepted if...it is reliable and that the maximum groundwater table is not expected to rise closer than 48". So, for the health department, they are allowing them to say, 'it is not expected to rise' but for an engineer they are expecting them to swear that it won't and that is the maximum groundwater table. Everyone can give their best opinion on where the groundwater is, but the truth of the matter is, no one is going to be able to say for sure. We could start having flooding and the groundwater table could change. It would seem consistent wording with the health department and the engineer so that it's an opinion based on the studies they have done or the information that is available. I don't think any engineer is going to be able or willing to state what they have been asked to state."

Ben Van Noy, replied, "That is the same line that I read that we need to change to be in compliance with the state regulations. The 'not expected to rise' will not be in there. It will say something to the effect of 'it is accurate and reliable in that the maximum groundwater table will allow for an onsite wastewater system pursuant to State Rule R317-4. There are certain circumstances where it can be less than 48" as per R317-4."

Helina Carter-Thomas said, "I just don't think an engineer will do it. So, then we will be at a place where no one will be able to do anything but groundwater monitor because an engineer isn't going to put their license on the line by stating something that they don't know for sure. It's all a really good educated guess as to what is going to happen with groundwater. That is as good as it can get. No one knows for sure where it is going to rise a little at some point or fall a little at some point over the next 50 years. We don't want people to be able to come back and sue these engineers."

Jeff Acerson asked, "Have we reached out to engineers and passed this by them? I think we need to make sure we solicit that input from them directly qualified, certified engineers. If they are uncomfortable with it, then we will need to re-think. I understand your point of view, but the county wants some kind of definition that legally binds somebody. That is the nature in which we work."

Eric Edwards, Deputy Director, UCHD said, "There are specialists such as hydrogeologists where this is their forte. They are engineers specific to this area of expertise that would be the ones that would be the experts."

Dianne Carr said, "I would assume they would swear based on certain criteria too. If they had an extreme weather condition that they would include that in their analysis as well."

Helina Carter-Thomas "Maybe they say 'based on the information' and they provide the information. The other suggestion I would make is that I know that some engineers have collected information about certain areas they have worked in as far as monitoring, but my experience is that the engineers are going to need the information that the health department has gathered throughout the years from the groundwater monitoring or the groundwater evaluations that have been done over the years. I would like the engineers or the professionals to be able to get that information from environmental health at the health department because I don't think they are going to have it themselves in all areas."

Jason Garrett responded, "In section 2 is exactly what you are talking about where a certified individual or designer certified in Utah or a hydrogeologist engineer can reach out and get the historical data."

Helina Carter-Thomas expressed concern about being able to get historical information from the health department.

Jeff Acerson, "I think it would be simple, that any public record, any information we have of a historical nature is accessible to which the Environmental Health Division confirmed it is accessible."

Ben Van Noy, "In certain circumstances there is information that is redactable under GRAMA (Government Records Access and Management), so we would look at it and treat it as a GRAMA request.

Helina Carter-Thomas, "I like a lot of this, and I hope that we can make sure we are doing a good thing covering all of the bases."

Ben Van Noy, "We would be happy to reach out to engineers and get their input and that is the purpose of this public comment period is to get more input."

**MOTION:** Gaye Ray made the motion to set a date, time and location for a public hearing on the proposed amendment to Health Regulation 2008-01 Governing the Determination of Groundwater Table Elevation at the next Board of Health meeting on March 25, 2019 at 4:00 pm in room #2500 of the Health and Justice Building which was seconded by Teresa Tavares and passed with unanimous vote.

5. Review the minimum performance standards compliance

Ralph Clegg reviewed the minimum performance standards compliance that is completed once a year for the Utah State Department of Health. Utah County Health Department meets the minimum standards as outlined in their rule.

**MOTION:** Dianne Carr made a motion to accept the minimum performance standards compliance as presented by Ralph Clegg which was seconded by Bill Lee and passed unanimously.

6. Ratify the 2019 Health Department budget

The 2019 County budget for the Health Department was outlined for the Board.

**MOTION:** Rick Nielsen made the motion to ratify the 2019 Health Department budget which was seconded by Mark Donaldson and passed unanimously.

7. Make assignment for Board of Health member to work with the UALBH Legislative Work Group (Thursdays during the legislative session at 3:00 pm)

Jeff Acerson accepted the assignment for the UALBH Legislative Work Group. The are local meetings with our legislators. Dates for Eggs & Issues, Bills & Bagels, Breakfast with Utah County Legislators will be emailed to board members.

8. Review the Health Department Mission and Values Statement

Ralph Clegg reviewed the Health Department mission statement, vision, and values with the Board.

9. Training on the Utah Open Meeting Requirements

**MOTION:** Gaye Ray made the motion to table the Utah Open Meeting Requirements until March 25, 2019 which was seconded by Mark Donaldson and passed unanimously.

10. Recommend to the Utah county Commissioners an additional candidate to serve as a Board of Health Member (suggested to table until after the closed meeting)

Item 10 was tabled until after the closed meeting.

**MOTION:** Rick Nielsen made the motion to move to closed meeting which was seconded by Gaye Ray and passed unanimously.

11. Approve and set a date, time and location for closed meeting to discuss the character, professional competence, or physical or mental health of an individual or individuals (suggested for today's date, at this location following the completion of the regular agenda)

**MOTION:** Teresa Tavares made the motion to move to an open meeting which was seconded by Rick Nielsen and passed unanimously.

**MOTION:** Bill Lee made the motion to pull the tabled item (item 10) off the table for consideration which was seconded by Gaye Ray and passed unanimously.

**MOTION:** Teresa Tavares made the motion to recommend for consideration Ryan Schooley to the Utah County Commissioners for appointment on the Board of Health representing the regulated community which was seconded by Dianne Carr and passed by unanimous vote.

12. Other business

-Utah Medical Cannabis Fact Sheet: *Ralph Clegg talked about the role for local health departments as prescribed by the state legislature. The local health departments are willing to do their roles as long as there is funding. The concern is that the commitment to the funding seems to have evaporated. We will be watching this closely at the legislature.*

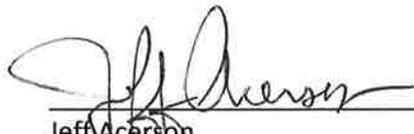
-UALBH Symposium – September 5-6 in Midway, UT

13. Employee changes

Employee changes were reviewed with the Board.

**MOTION:** Mark Donaldson made the motion to adjourn which was seconded by Gaye Ray and passed with unanimous vote.

  
\_\_\_\_\_  
Ralph Clegg, EHS MPA  
Director / Local Health Officer  
Utah County Health Department

  
\_\_\_\_\_  
Jeff Acerson  
Chair  
Utah County Board of Health