

**Gunnison County Environmental Health Board
Agenda: March 29, 2018**

- 1:15 p.m.** Call to order; determine quorum
- 1:17 p.m.** Approval of minutes from the February 22, 2018 meeting
- 1:20 p.m.** Unscheduled Citizens: A brief period in which the public is invited to make general comments or ask questions of the Board or County Staff about items which are not scheduled on the day's agenda.
- 1:30 p.m.** **Public Hearing: Proposed Revisions to the Gunnison County OWTS Regulations.** The Gunnison County Community Development Department has prepared draft revisions to the current OWTS Regulations that are no less stringent than the OWTS Act, C.R.S. §25-10-101, et seq. and Colorado Water Quality Control Commission OWTS Regulation No. 43, 5 CCR 1002-43. Regulation 43, Section 43.4.A.2., requires that local jurisdictions promulgate OWTS regulations that are as stringent as Regulation 43 by June 30, 2018.

Adjourn

NOTE: Unless otherwise noted, all meetings are conducted in the Blackstock Government Center Meeting Room at 221 N. Wisconsin Street in Gunnison, across the street from the Post Office. Anyone needing special accommodations please contact the Community Development Department (641-0360) before the meeting.

**GUNNISON COUNTY ENVIRONMENTAL HEALTH BOARD
March 29, 2018**

The Gunnison County Environmental Health Board conducted the March 29, 2018 meeting, in the Planning Commission Meeting Room at the Blackstock Government Center.

Present Were:

Lucinda Lull, Chairperson
Larry Parachini, Vice-Chairperson
Eddy Balch, EH Board Member
Rodney Due, EH Board Member
Ed Bavouset, EH Board Member
Bill Barvitski, EH Board Member Alternate

Crystal Lambert, Building and EH Official
Charlie Dominguez, EH and Building Inspector
Rebecca Ricord, Administrative Assistant
Cathie Pagano, Community Development Director

Audience:

John Billingsley
Gary Moore
Earl Fay
Leonard Wasilenski
Kari Roberts
Gerald Lain
Jaima Giles
Brieonna Aljets
Lucia Lebon
Austin Chambers
Bill Nesbitt
Steve Mills
James Sharpton
Ramon Reed

Call to order: A quorum was determined by Lull at 1:16 pm. The meeting was properly noticed and verified by Lambert.

Approval of Minutes:

Approval of Minutes from the February 22, 2018 meeting. **Moved by:** Parachini, Seconded by Due to approve the February 22, 2018 meeting minutes as presented. Voting Yes; Board Members Lull, Due, Balch and Parachini.

Unscheduled citizens:

None.

Public Hearing: Proposed Revisions to the Gunnison County OWTS Regulations. The Gunnison County Community Development Department has prepared draft revisions to the current OWTS Regulations that are no less stringent than the OWTS Act, C.R.S. §25-10-101, et seq. and Colorado Water Quality Control Commission OWTS Regulation No. 43, 5 CCR 1002-43. Regulation 43, Section 43.4.A.2., requires that local jurisdictions promulgate OWTS regulations that are as stringent as Regulation 43 by June 30, 2018.

Lull opened the public hearing at 1:30. Lambert explained that the hearing had been publically noticed for 30 days. The proposed draft regulations have been revised to be no less stringent than the State’s Regulation 43: OWTS Regulation and must be adopted by June 30, 2018. From the work session on February 22, 2018 Lambert updated the draft with the changes recommend by the Environmental Health Board (“Board”), including changes to the installer and cleaner license section. Additionally, Lambert explained that she has been meeting with the County Attorney’s Office regarding the proposed regulations. Parachini questioned if the licensed installer and cleaner/hauler courses are offered online. Lambert was unsure and would have to look into it. Lull wanted to know when the trainings could be brought to Gunnison. Lambert stated that would need to be set-up with NAWT and CPOW and could be as soon as this summer, if desired.

Lambert explained that the draft Gunnison County OWTS Regulations had been sent to the State for review. The State's review letter had been received. In the State's review letter, they recommended that the Board review table 7.2, vertical separation distance table and commented that "it is recommended that at some level of treatment a reduction and separation distance be allowed, the application of your proposed regulation may actually deter someone from installing a higher level treatment system, which they may have otherwise installed." Lambert stated that this Section, as proposed, is more stringent than what the State requires and there is room for discussion. Lambert notified the Board that any future changes to the proposed draft will also need to be reviewed by the State.

Lambert further explained formatting and organizational changes to the draft that had been made since their last meeting. They are: The Transfer of Title section is located in Appendix C, starting on page 119. The Marble OWTS district was also moved to an Appendix. The OWTS Special District was moved from the appendix to Section 16. Lambert explained that there are areas in the proposed OWTS Regulations that are not required by the State, however they are recommended by the State. They are: Transfer of Title and contractor licensing. There are approximately 21 counties throughout the State that are either adopting the Transfer of Title program or are looking at adopting it. Balch inquired if there was any feedback from the State regarding contractor licensing and Lambert reported that the State supports and recommends the contractor licensing and training program.

Public Comment and discussion of proposed OWTS Regulations

Gary Moore, Gunnison County licensed OWTS installer and NAWT certified inspector, inquired about any additional certification requirements. Lambert explained that, as a licensed OWTS Installer, he would need to obtain NAWT certification as a OWTS Installer in order to maintain his Gunnison County license.. Moore inquired about a grace period for obtaining the training and certification. Lambert explained that the current draft provides the currently licensed professionals with two years to obtain their training and certifications. New applicants for a Gunnison County OWTS license would need to obtain the training and certification before receiving their license. Moore stated that he has been discussing the proposed Transfer of Title program with people in his area and feels that the Transfer of Title program would be a violation of civil rights and wanted more clarification of the procedures for the process.

Lambert provided a brief overview of the Transfer of Title program and described what implementation of the program would look like for OWTS owners and users. A NAWT certified inspector would inspect existing OWTS to verify that they are functioning as designed and not in a state of failure prior to transferring the title of real property. If the system, or a component of the system, is shown to be in a state of failure, then the OWTS would need to be repaired before the Department can issue an acceptance document. An acceptance document will be issued by the Department for systems that are shown to be working as designed and not in a state of failure. It is anticipated that an acceptance document could be issued at the counter with minimal review time. Lambert explained that a conditional acceptance document could be issued, if the property is not accessible such as during winter, if the NAWT inspector verifies that they have been hired for the inspection and will conduct it as soon as the property is accessible and the people receiving the property agree to repair any component found to be in a state of failure within 90 days of the inspection. Lambert reviewed conditions when a property would be exempt from the Transfer of Title program, such as for newer systems installed or repaired within the previous 4 years.

Moore shared concern about systems that may not be built to current standards, such as Arrowhead type systems, would not be given an acceptance document. Lambert explained that the Transfer of Title inspection program is only to show that a system is functioning as designed and not to require that existing systems be brought up to the current installation requirements

Lebon, Real Estate Professional, worried that the inspector may not be familiar with the system and will fail them.

Concerning the Transfer of Title program, Bill Nesbitt wanted to know the following: what is the purpose of the program, what happens in the winter, and why provide 90 days to repair a system that is shown to be failing, Parachini stated that you don't have to necessarily pump the tank to do the inspection, that a lot could be learned just by observing the contents of the tank. Moore disagrees and Lambert stated that it is up to the inspector to require that or not. Lambert explained that the purpose of this program is the protection of Public Health, Safety and Welfare. Lambert further explained that the 90 day grace period for a repair is given but, as with any OWTS, if there is an immediate risk to public health and safety other sections of the body of the OWTS Regulations address the response, which is less than 90 days Nesbitt suggested those sections be included in the Transfer of Title Appendix.

Billingsley, Gunnison County licensed OWTS Installer and cleaner/hauler and NAWT certified Inspector, stated that he is in support of the Title of Transfer section to protect his profession. Lambert asked how many failed systems Billingsley has seen. Billingsley said that he knows of 33 systems that are failing and aren't functioning as designed. In regards to the proposed Standards of Performance of all licensed OWTS cleaner/hauler, Billingsley shared that he is not comfortable being required to report failing systems to the County, He feels that being required to tell on them would undermine the trust his customers have in him and the care of their OWTS. Lebon, Real Estate Professional, inquired if there is a window from closing that the inspection has to be completed. Lambert explained that the current draft provides 12 months for the inspection and 12 months for the acceptance document, giving a total of two years.

Roberts wanted to know about other Counties that have implemented the Transfer of Title program and how its working. Lambert explained that several counties adopted this program in 2014, when we were all first required to align with Regulation 43 and that she has not heard of any fatal flaws or struggles. The current draft was initially modelled after what Weld County is proposing, at the recommendation of the Division, because of the simplicity. Roberts is in support of the Transfer of Title program and would like more information on how it will work in Gunnison County. Lambert explained that the first step is to get it on the books and focus on outreach and education rather than enforcement.

Jiles wanted to know if a property is on the market for longer than one year will the seller be required to have another inspection conducted. Lambert explained that it would depend on the use of that system during the time it was on the market. If the system has not been used, or has been lightly used, then it should be fine. If the system has been getting hammered with heavy use then an inspector should take a look and possibly renew or amend the inspection report. Due expressed his opinion that the inspection reports should be valid for longer than 12 months, maybe to 3 years. Jiles questioned whose responsibility it would be if the system fails after and the property is transferred especially in cases where the inspection hasn't been done yet because of the weather. Lambert stated that it would be up to the current owner of the property and OWTS. Lambert went over the section on conditional acceptance of title document requirements. Chambers wanted to know if the intent that a conditional permit would be issued as a matter of course or is it something that in the future the department could change their mind since it says "may". Lambert will review the word "may" with the Board and the County Attorney's Office.

Lain shared that he believes it would be beneficial that the County talk to someone who has been in business for years and develop a user's guide for the public and realtors to look at and use. Parachini stated that the Transfer of Title program protects consumers as well and the Public Health, Safety and Welfare.

Lambert began the discussion of the Licensed OWTS Installer and Cleaner/Septage Hauler section and explained that Gunnison County has required professionals become licensed through Gunnison County for a number of years already. The major proposed change to this section is to require additional educational training and certification. Moore stated that a lot of people coming to our area do not know much about septic systems and that it would be beneficial for the County to make a dos and don'ts documents for those owners. Lambert reported that the County does have those and they have been offered but not very popular. Moore believes that the public needs to be educated. Balch stated that that is something the Board is trying to work on and address.

Parachini thought it would be great if there was a program to provide owners with low interest rates to fix their systems. Lambert will inquire with the State to see if they know of any program. Billingsley shared his belief that the County should enforce the licensing requirements for professionals who fail to follow the Regulations. Roberts, Professional Engineer, inquired about table 7-1, regarding setbacks distances to waterbodies and wanted to know why the County is so much more stringent than the State. Lambert stated the reason is because Gunnison County is the headwaters and holds the protection of water quality, public health, safety and welfare in the highest regards. There is an avenue for a variance from those setback distances with the Environmental Health Board but they cannot be granted administratively by staff. Lambert reported that the first work session with the County Commissioners is scheduled for April 24 and that a Public Hearing with the County Commissioners is tentatively scheduled for June 5, 2018 and that date may change.

The Board discussed and recommended changing the following:

Revise the length of time a NAWT Inspection is valid for from 12 months to 24 months.

The deletion of Section C of Appendix C, requiring that *Transfer of Title Acceptance Documents shall only be issued for properties served by a permitted OWTS, unless the OWTS on the property clearly predates the OWTS permitting program adopted by Gunnison county on March 25, 1998.....*

Moved by: Bavouset, Seconded by Balch to close the public hearing and approve the draft of the OWTS regulations with the recommended changes from the Board and move forward with the Board of County Commissioners work session on April 24, 2018. Voting Yes; Board Members Lull, Due, Balch, Bavouset and Parachini.

Moved by Parachini, Seconded by Balch to adjourn the March 29, 2018 meeting of the Environmental Health Board at 3:32 P.M. The motion passed unanimously with Lull, Parachini, Balch, Bavouset and Due, voting Yes.

/S/ Rebecca Ricord
Administrative Assistant III
Gunnison County Community Development Department