



## **PUBLIC MEETING**

January 4, 2018  
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, January 4, 2018, at 9:00 AM in Commission Chambers Room 330.

### **Roll Call**

Chairman Andy Hunthausen called the meeting to order at 9 a.m.

Commissioner Jim McCormick and Commissioner Susan Good Geise were present. Others attending all or a portion of the meeting included Roger Baltz, Paulette DeHart, Karie Frydenlund, Eric Gilbertson, Matt Heimel, Peter Italiano, Eric Merchant, Lindsay Morgan, Audra Zacherl, Jim Strachan, Margaret Wilkison, Wade Marcus Wilkison, Dani Mitchell, Kerry Bartlett, and Nadine McCarty, Recording Secretary.

### **Pledge of Allegiance**

Everyone recited the pledge.

### **Consent Action Items**

There were no consent action items.

### **Contract Between Lewis and Clark County and Affordable Metal Building Supplies (AMBS). (Audra Zacherl).**

Audra Zacherl, Assistant Director of Public Works, presented the contract with Affordable Metal Building Supplies to replace the roof on the snowplow equipment storage building. In September 2017, a contract was signed with a different company for this work to be completed by the end of November. The contractor was not able to fulfill the contract terms. This new contract is for the materials and labor to replace the existing 6,400 square foot roof on the snowplow equipment storage building with a standing seam metal roofing system. The total cost is not to exceed \$44,363 with work to be completed within 60 days of contract execution or March 5, 2018. This project was not in the current year's budget; however, the roof has progressively worsened and this past spring the leaks started affecting the garage door openers and the furnace. There is budget authority savings in capital from the purchase of a used roller instead of new and that savings will be used for this project. Staff recommends approval.

Ms. Zacherl gave an overview of the previous contractor's inability to fulfill the original contract. This project did not require a performance bond because it was below the \$50,000 threshold.

No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

**Grant Award from Montana Board of Crime Control. (Eric Gilbertson)**

Eric Gilbertson, Criminal Investigation Bureau Sergeant, presented the grant award from the Montana Board of Crime Control in the amount of \$71,632.71 for the Violence Against Women Act (VAWA) program. The funds will be used towards the salary costs of the appointed VAWA Deputy with a match of \$23,877.59 to be made by the Sheriff's Office to cover the fringe benefits of the position. This role is vital to the Sheriff's Office mission. The grant period is July 1, 2017 through June 30, 2018. Staff recommends approval.

Commissioner Good Geise confirmed with Mr. Gilbertson that men are also served through this program.

No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

**Grant Award to Lewis and Clark Public Health from the U.S. Food and Drug Administration and the Association of Food and Drug Officials. (Eric Merchant)**

Eric Merchant, Division Administrator for Disease Control and Prevention, presented the grant award from the U.S. Food and Drug Administration and the Association of Food and Drug Officials in the amount of \$3,000. The award specifically provides funding for two Licensed Establishment program staff to attend the 2018 Pacific Region Retail Food Safety Seminar. The training this year will be held in September in California. The seminar provides staff the opportunity to communicate with speakers and representatives from the retail food industry regarding current trends and regulations relating to the food industry. The pertinent training information is distributed to all staff and affected entities in the Public Health Department and recommendations are implemented where necessary. The grant period is January 1, 2018 through December 31, 2018. Staff recommends approval.

Mr. Merchant gave an overview on the food inspections of the licensed food establishments listed on the County website under the Public Health section. He added that when they do inspect establishments, if they see a violation or something that needs to be corrected, they will work with that establishment to make it happen as quickly as possible.

No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

**Task Order 18-07-4-51-006-0 to Master Contract Between Lewis and Clark City-County Health Department and the Montana Department of Public Health and Human Services. (Eric Merchant)**

Eric Merchant, Division Administrator for Disease Control and Prevention, presented the Task Order with the Montana Department of Public Health and Human Services (DPHHS) in the amount of \$20,570 for HIV prevention services. This represents a continuation of HIV Prevention Services provided under a master contract with DPHHS. The primary purpose of the contract is to prevent the spread of HIV in Lewis and Clark County by providing services such as counseling,

testing and referral services, and condom distribution. It also includes targeted advertisements such as newspaper ads, billboards, and flyers posted in area businesses. The services are primarily provided by the Public Health nurses in the Immunization and Communicable Diseases program in a clinical setting. The Public Health Department hopes to have an HIV Prevention Coordinator in the year 2018. The effective date for services provided is January 1, 2018 through December 31, 2018. Staff recommends approval.

Mr. Merchant explained this funding is specific to HIV and high risk HIV individuals only. Other sexually transmitted diseases (STD) are tested for with increases in all of those but the funding is separate from this. Positive results of these STD tests could possibly categorize the individual as a high risk for HIV and follow-up testing with the HIV funding could be provided.

No public comment was received.

A motion was made by Commissioner Good Geise to table the item until the January 11th public meeting to discuss the scope of the contract and work to be performed. The motion was seconded by Commissioner McCormick. The motion passed 3-0.

#### **Lewis and Clark County Policy on Tax Refunds and Waivers. (Paulette DeHart)**

Paulette DeHart, Treasurer, Clerk and Recorder, presented the draft policy on tax refunds and waivers. The Commissioners have the authority to authorize refunds or to waive certain taxes and penalties under limited circumstances. Ms. DeHart stated that part of the reason for the new policy is that Department of Revenue is changing the reappraisal cycle from every 6 years to every two years. The statute allows the Commissioners to issue refunds for up to 5 years. This policy will educate both taxpayers and County staff on the process and procedures for a refund.

Ms. DeHart stated the Department of Revenue is where the tax bills and assessments come from; the County is the collector of the taxes. A refund may be approved if the Department of Revenue determines the assessment or appraisal of the property was in error. A refund may go back for no more than five years and the individual applying for the refund must be the legal owner of the property. The policy also stated that Montana law does not allow refunds or waiver of penalties and interest in the event that someone didn't pay their bill on time because they were out of town or their bill was sent to the wrong address.

No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

#### **Correction to Amended Subdivision Improvements Agreement for Garden Valley Subdivision. (Planner: Lindsay A. Morgan)**

Lindsay Morgan, Planner II, presented the correction to the front page of the amended Subdivision Improvements Agreement (SIA) for the Garden Valley Subdivision. The SIA was approved by the Commission on November 9, 2017; however the amount of the financial guaranty is incorrect on the front page only and needs to be amended to reflect the correct amount that was discussed during the October 25, 2017 and November 9, 2017 Commission meetings and as shown on Exhibits B and C of the SIA.

No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

**Request to Extend the Preliminary Approval for the Petition to Abandon a Portion of Argenta Drive (Applicant: Jarron and Dani Mitchell) (Planner: Matt Heimel)**

Matt Heimel, Special Districts Planner, presented the request to extend the preliminary approval for the petition to abandon a portion of Argenta Drive. The petition was granted preliminary approval on December 13, 2016 subject to three conditions. The applicant was given one year to complete and record a certificate of survey that shows the retention of the underground public utility easement within the abandoned section of Argenta Drive and to reference the resolution that officially documents the abandoned segment of Argenta Drive. At the time of preliminary review and approval, the proposal was to retain the utility easement and process an encroachment agreement between the applicant and the County for any private improvements with said easements. Through seeking those actions, the applicant has worked with Northwestern Energy to delineate utilities and electric lines located within the subject easement. It has now become apparent that the optimal course of action for the applicant and Northwestern Energy would be to modify other existing utility easements in the vicinity and eliminate the subject easement, which would require an amended plat to be processed. Seeking approval of an amended plat pushed the project beyond the one year approval, therefore the applicant is seeking an extension on the application. Mr. Heimel added that the applicant has had a per-application meeting regarding amending the plat of Holmberg Village Estates. The applicant is currently compiling documents to make application.

**PUBLIC COMMENT -**

Dani Mitchell, 4272 Hines Road, stated during the finalization Northwestern Energy viewed the site and stated that they voluntarily vacated and relocated the utility that was in the easement. She believes a one year extension should be more than ample time to finish the project.

Mr. Heimel stated that today's consideration for the Commission is simply for approval of the one year extension of the petition, not approval of the amended plat.

A motion was made by Commissioner Good Geise to approve the request for one year extension and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

**Proposed Revocation of an Agricultural Covenant on the 14.09 Acre Tract of C.O.S. 342358 (Applicant: Wade Marcus Wilkison) (Planner: Matt Heimel)**

Matt Heimel, Special District Planner, presented the proposed revocation of an agricultural covenant on a 14.09 acre tract located north of the boundary of Jefferson County along S. Hills Road, southwest of Sweetgrass Road, and Lodgepole Road. The parcel is currently undeveloped and is mostly forested. There is no agricultural use on the property and the area is covered with stands of Douglas Fir and Ponderosa Pine. The parcel was created in 1981 through an agricultural exemption. Parcels created with an agricultural exemption are not subject to subdivision review provided that there is a deed restriction that would state the parcel is to be used for agricultural purposes only. The certificate of survey for this parcel does have a deed restriction noted on it that explains the agricultural covenant.

Mr. Heimel added that Resolution 1986-55 was established to allow the Commission to consider the revocation of an agricultural covenant on a parcel. The resolution states that the revocation should only be made for extraordinary reasons such as the land cannot be used for an agricultural purposes due to circumstances beyond the control of the parties to the original transaction which divided the land and created the parcel subject to the covenant. According to the applicants

request letter, there is no sign of previous agricultural use on the property, it appears to be of poor capability for cropland and slope appears are prohibitive to rangeland.

If preliminary approval is granted, it does not mean the covenant is lifted and staff recommends that the parcel go through subdivision review as a condition of approval in order to rectify any apparent evasion of subdivision laws and regulations. No construction can take place until the complete and final approval of subdivision approval and a resolution is passed lifting the deed restriction on the lot.

Mr. Heimel added that the Planning Department did receive seven written letters of opposition to this request.

Commissioner McCormick asked if the agricultural component that he can see is small diameter timber, which does not seem feasible as agriculture.

Mr. Heimel stated if this request is granted preliminary approval today there would be a whole new process including a subdivision application, a public meeting, and notice to the adjacent property owners.

#### PUBLIC COMMENT -

Wayne Wilkinson, 2007 Sweetgrass Road, stated he has lived about one-tenth of a mile from the subject property for twenty-six years. The plan is to build one house on the parcel and not divide the property into small lots; he wants to keep it as natural as possible.

Kerry Bartlett, 336 S. Hills Road, stated the neighborhood has been established since 1981. Everyone in the neighborhood appreciates the privacy that the parcel provides. The covenant has been in place for many years, and it works well to provide a neighborhood environment. If the covenant is lifted it will change that feeling. Landowners in that area do not wish to see it developed.

Perry May, 2003 Lodgepole Road, stated her property abuts the property in question. She does not believe all of the property owners along Lodgepole and Sweetgrass Roads have been notified of this proposed revocation. Given the history of the lift of the covenant on Sweetgrass Road by Mr. Hampton might raise concerns by other property owners. She requested the public comment be extended. Ms. May added that she also has concerns regarding access to the property via Lodgepole Road as that access is not ideal for a number of reasons. The neighborhood is in a high fire hazard area with a steep gradient and is densely wooded. If the property is developed would like to see fire mitigation done on the property.

Mr. Heimel stated a legal notice was published for two weeks in the Independent Record and notification was sent to all adjacent property owners, including those along South Hills Road in Jefferson County.

Commissioner Hunthausen asked Mr. Wilkinson if were to move forward with the request he understands would have to go through subdivision review. Mr. Wilkinson responded that he understands all of that. He stated he has met with the County planners on the subdivision process; he has contacted local fire departments and a fire mitigation specialist and has already begun the process of fuel reduction.

Mr. Wilkinson stated his plan is to access the property off of South Hills Road. The reason for the current access of of Lodgepole Road was for the tree mitigation due to the steep incline it is the easiest way to access that portion of the property.

A motion was made by Commissioner Good Geise to table this item to Thursday, January 11, 2018 at the regularly scheduled meeting and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

**Public comment on any public matter within the jurisdiction of the Commission that is not on the agenda above.**

Jim Strachan, York area, stated he was here in July to discuss issues and he would like to further discuss the logging operation that occurred 3-4 years ago in the Beaver Creek drainage, north of York. The loggers drove directly down Beaver Creek Road during the height of brown trout spawning causing disturbance and erosion. He spoke with Bill at the DEQ regarding this issue but he never received any answers. He went to the Forest Service only to be told it is not within their jurisdiction. He would like an explanation and an investigation on the logging operation and how it did not follow regulations.

Commissioner McCormick referenced jurisdictional authority and what the County can do and who has authority.

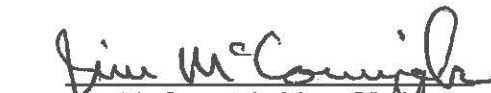
Mr. Strachan stated if the County does not have the jurisdiction please tell him where he can find answers.

**Adjourn**

There being no further business, the meeting adjourned at 10:41 am.

LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

\_\_\_\_\_  
Andy Hunthausen, Chair

  
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Jim McCormick, Vice Chair

  
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Susan Good Geise, Member

ATTEST:

  
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Paulette DeHart, Clerk of the Board