



## **PUBLIC MEETING**

January 7, 2020  
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, January 7, 2020, at 9:00 AM in Commission Chambers Room 330.

### **Roll Call**

Chair Susan Good Geise called the meeting to order at 9 a.m.

Commissioner Andy Hunthausen and Commissioner Jim McCormick were present. Others attending all or a portion of the meeting included Roger Baltz, Nancy Everson, Nicho Hash, Greg Holmlund, Alan Hughes, Peter Italiano, Ann McCauley, Lindsay Morgan, Drenda Niemann, Jill Steele, Edwin K. Sherman, Robert W. Grudier, Wayne Waters, Harold R. Crowder, Joe Schmitz, Steve Gores, Mike Rhoades, Kathy Rhoades, Brent Stoos, Carol Andersen, Harold Begger, Brian Obert, Lyla Lindskog, Les Bramblett, Ann Bramblett, Kathy Fehr, Jan Hernandez, Theresa Ortega, Ken Higgins, Steve Wilson, Harold Messer, Alex Malinauskas, Terry Zimmerman, KD Feedback, Marjie Adams, Jillian DeAmicis-Danesi, Robert Kauska, Raymond Read, Linda Read, Forrest Baertsch, James Skinner, Nan Harris, Robert Dall, Kathy Olson, Sandra Morgan, Kristen Hansen, Annmarie Robinson, Marcia O'Dell, Matt Kowalczyk, Catherine Smith, Leslie Elfod, Sandra Mihelish, Kimberly Pipes-Sherman, Melissa Higgins, John Earley, Mike Earley, Nickie Krause, and Nadine McCarty, Recording Secretary.

### **Pledge of Allegiance**

Everyone recited the pledge.

### **Consent Action Items**

- a. Lease Contract Between Lewis and Clark County and Helena Montana Associates, LLC. (Leo Gallagher)

Roger Baltz reported on consent action item 2 a and recommended approval.

No public comment was received.

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

### **Grant Award to Lewis and Clark County from the State of Montana Board of Crime Control. (Greg Holmlund)**

Greg Holmlund, Sheriff's Office Violence Against Women Act (VAWA) Detective, presented the grant award from the Montana Board of Crime Control in the amount of \$66,369. The grant period is July 1, 2019 through June 30, 2020. The funds will be used for the salary and operating costs of the Lewis and Clark County Sheriff's Office VAWA coordinator position. The Sheriff's Office will contribute matching funds of \$22,124 for a total grant award of \$88,493. Staff recommends approval of the grant award.

Detective Holmlund gave an overview of the VAWA program noting his job is to review and follow up on all sexual assaults and domestic violence cases. He stated there are two other detectives that work on cases. The statistics he has are only cases he worked on and included: 7 rape cases, 1 sex assault in 2018; 19 rape cases, 4 sex assaults in 2019. Detective Holmlund noted he grouped domestic assault along with strangulation of which 25 cases were worked in 2018 and 40 cases were worked in 2019. The amount of cases that came into the dispatch center could probably be doubled for Lewis and Clark County. The presented statistics are cases that required additional attention. Detective Holmlund explained the importance of the detectives being in plain clothes and the interview process.

No public comment was received.

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

**Grant Award to Lewis and Clark County from the State of Montana Board of Crime Control. (Alan Hughes)**

Alan Hughes, Detention Center Captain, presented the grant award from the Montana Board of Crime Control in the amount of \$5,692.30 for the purchase of bullet proof vests and firearms for the jail transport officers at the Lewis and Clark County Sheriff's Office. The grant period begins January 1, 2020 through September 30, 2020. Currently there are two transport officers that mostly run inmates out of the county. The newly trained transport officers will do the local transports such as to the hospital. This will alleviate taking patrol officers off the streets to do transports. Captain Hughes added the number of transports done are in the 100s within the quarter. Staff recommends approval of the grant award from the Montana Board of Crime Control.

No public comment was received.

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

**Contract Between Lewis and Clark County and Dayspring Plumbing and Heating, Inc. (Jill Steeley)**

Jill Steeley, PureView Executive Director, presented the interim contract with Dayspring Plumbing and Heating, Inc. for various plumbing related services. They have had to do quite a bit of work at the clinic in Lincoln. The contract will begin upon approval of all parties and extend through February 28, 2020. Compensation will be provided per project based upon the fee schedule. Staff recommends approval of the contract with Dayspring Plumbing and Heating, Inc.

No public comment was received.

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

**Agreement Between Lewis and Clark County and Good Samaritan Ministries. (Drenda Niemann)**

Drenda Niemann, Public Health Officer, presented the agreement with Good Samaritan Ministries to operate Our Place Drop in Center over the next few months while the Request for Proposal (RFP) process is completed by the County to identify a long term provider for the services. The need for a short-term contract is a result of the withdrawal of services from Western Montana Health. A temporary plan was developed in order to keep the doors open in the short-term. The agreement is in the amount of \$12,291 per month through February 29, 2020. Staff recommends approval of the agreement with Good Samaritan Ministries.

Theresa Ortega, Good Samaritan Ministries Executive Director, stated they already have staff on the job and are working with Instar for additional staff to come in about 2.5 days a week and they will bill Medicaid for that staff.

Ms. Ortega stated they received a question from their insurance company regarding indemnification and the phrase "solely responsible". It was asked of Nicho Hash, Deputy County Attorney to look into the phrase for decision to be made on January 9, 2020.

No public comment was received.

A motion was made by Commissioner Hunthausen to table the item to January 9, 2020 and seconded by Commissioner McCormick.

Commissioner Hunthausen gave an overview of the importance of Our Place Drop in Center and the benefit to the clients and the community by having the service available to people living with behavioral health issues.

Commissioner Good Geise stated there is a motion on the floor to table the item to January 9, 2020. The motion Passed on a 3-0 vote.

**Resolution 2020-4 in Support of Montana Business Assistance Connection as the Designated Certified Regional Development Corporation and Economic Development District. (Ann McCauley)**

Ann McCauley, County Grants Administrator, presented the resolution in support of the Montana Business Assistance Connection (MBAC) as the designated state Certified Regional Development Corporation (CRDC) and Economic Development District (EDD) for the County. MBAC has been serving in this role since 1990 and formerly as a CRDC since 2003. Both the state and federal Departments of commerce require MBAC to do a recertification as the CRDC/EDD. The resolution affirms the County's support of MBAC as the designated CRDC/EDD organization for Lewis and Clark County.

Brian Obert, MBAC Executive Director, stated as an economic development agency they have to be recertified to receive funds from federal, state, local governments and the local businesses to create their operation. MBAC does economic and community development. There are currently 15 different loan funds. He thanked the Commission for supporting the Community Development Block Grant for the High Country Snack Foods in Lincoln. Their sales in the last quarter have been up nearly 40%. This year there will be additional work done in the Lincoln area. Mr. Obert recognized the professionalism of the County staff that they interact with on a daily basis, the good work of Jeff Wadekamper, the Helena Airport Authority, their management of having other ways to generate income, and the significance of the additional Alaska Airlines flight to Seattle.

Mr. Obert gave an overview of the recertification timeframe for the EDD and noted the support of the County brings in \$70,000 annually for MBAC to have the ability to do the work. The state of Montana has the complimentary program CRDC coming up for recertification at the same time.

No public comment was received.

Commissioner McCormick stated he sits on the MBAC Board and will continue to do so.

A motion to approve was made by Commissioner Hunthausen and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

**Budget Amendment to the County's Budget for Fiscal Year 2020. (Nancy Everson)**

Nancy Everson, Chief Financial Officer, presented the request of the Lewis and Clark Criminal Services Department for an additional 3.0 FTE for the Detention Center Behavioral Health Team. The Department is requesting to increase the budget for these FTE's for the remainder of FY20 at a cost of approximately \$103,939, funded by the criminal justice services fund, either through grants or property

tax revenue or a combination. These are positions that until December 31, 2019 had been contracted through Western Montana Mental Health Services.

MCA, 7-6-4031 states in part that a public hearing is required for an overall increase in appropriation authority. Because this is an increase in the number of FTE's over what was authorized in the FY20 budget, as well as an increase in the budget authority, a public hearing is required. The public hearing was advertised as required by statute for two weeks in the Independent Record. Staff recommends approval of the request to increase staffing by 3.00 FTE and approximately \$103,939 in budget authority for the Criminal Justice Services Fund.

Kellie McBride, Criminal Justice Services Director, stated the County has a Criminal Justice Coordinating Council, one of 30 in the United States to be selected to be part of the national network. Ms. McBride reached out to other councils regarding this model and found that it is used across the nation and works well to not contract the services out.

No public comment was received.

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

**Resolution 2020-5 to Create the Boundaries of a Part I Special Zone District. (Planner: Lindsay A. Morgan)**

Lindsay Morgan, Planner III, presented the resolution to create the boundaries of the Part I, citizen initiated, Special Zone District No. 51 and gave an overview of the three steps in creating a Part I Zone District. The proposed District is approximately 389 acres, bounded by Forestvale Road on the north side, Green Meadow Drive on the west side until Mill Road, and property boundaries on the remainder of the west side and the south and east sides.

The landowners in the area petitioned the County to create a Part I Special Zone District and to initiate the process of creating the District, state law requires 60% of all affected landowners sign the petition, in this case 63% signed the petition. On November 12 and November 21, 2019, the Commission held public meetings regarding creation of the boundaries. On November 21, 2019 the Commission voted 2-1 to create the boundaries for the District as proposed by the petitioners, and as amended by the Commission, which initiated the 30-day protest period. For the protest period updated notification was posted on the signs in the District regarding the protest period and this meeting, it was noticed in the newspaper and letters were sent to all property owners within the proposed District boundaries. During the protest period six protests were received. Landowners representing a minimum of 50% of the titled property ownership in a proposed District are required to successfully protest the forming of the District. The six protests totaled approximately 20% of the titled property ownership. Because it was not protested out the Commission has the option of adopting a resolution to create District boundaries. Should the Commission decide to move forward with adopting the resolution, the Commission will need to either create a Planning and Zoning Commission or appoint the current Planning and Zoning Commission to administer the new District. In addition to this, the Commission should also consider directing staff to move forward with steps 2 and 3 of the Part I zoning process: adopting a neighborhood plan/development pattern for the District; then adopting regulations for the District to implement the neighborhood plan/development pattern.

Greg McNally, Planner III, gave an overview of County initiated Part 2 zoning, noting it is being looked at for the Helena Valley and is in line with the Helena Valley Growth Policy update. Two public meetings have been held regarding the proposed Part 2 zoning with two additional evening meetings to be held January 23rd and 28th. An interactive map exists on the County website where residents can enter their address and see where their property sits within the proposed district. There is not a solid date and time when the proposal will come before the Commission.

Extensive discussion occurred regarding: the item under consideration being part of the Urban Growth Area and Transitional Growth Area, which would be encompassed by the proposed Part 2 Zoning, plus the Rural Growth Area; the growth policy being a guiding document and not a regulatory document; meetings that have occurred with organizations that have an interest in the proposed Part 2 Zoning; the density focus of the growth policy update and the five key issues addressed in the policy.

Nicho Hash, Deputy County Attorney, stated Part 1 zoning is separate and distinct from Part 2 zoning. While the Part 2 zoning are global considerations, the discussion today is Part 1 Zoning for a very specific area.

Mr. McNally noted in the case of two overlaying districts the one with the most restrictive regulations would apply.

#### PUBLIC COMMENT -

Leslie Elford, licensed real estate agent, a former resident since 1961 of property on the corner of Ronda Road and McHugh Lane, just sold that property and also owns parcels north of Rainier Road, stated the property has become residential. He is a proponent of the area becoming a residential zoned area.

Steven Gores, 534 Mill Road, stated he is about 150 yards from the southeast corner of the proposed gravel pit. There are too many people living in the area for one person to profit while everyone else holds the bag.

Ms. Morgan stated the state reviews gravel pits. There is no County process involvement related to gravel pits unless there are zoning restrictions.

Mr. Hash added today is just about creating the district boundaries.

Ms. Morgan noted protest for Part 1 Zoning is related to the titled property ownership and the overall acreage is looked at.

Mike Earley, 760 Mill Road, stated from the last time he saw the map it now appears that they are no longer within the District. He added Kim Smith built the home and sold him the property about 23 years ago, it was always expected the area would be residential. The proposal to build a gravel pit in the center of the area creates many problems for property owners, specifically water contamination with shallow wells. He is opposed to a pit.

Mike Williams, 5157 Kerr Drive, stated he has lived there for over 40 years and would like to know why it has taken so long to get Special District 51 approved.

Brent Stoos, 5041 Hedges, stated some work has already started in the proposed gravel pit area. There is already a change to the water, where he has to change his water filters more frequent and the gravel trucks already on the road knock pictures off the walls.

Jan Hernandez, 920 Mill Road, stated she is barely outside the proposed area and asked if the covenants is the reason for excluding the rest of Mill Road. She added Mr. Smith should not already be working in the area, he should be stopped because this has not been decided.

Lyla Lindskog, 534 Stadler Road, stated they purchased the home with understanding the property behind them would probably become residential. She asked that the District be established. The type of business is going to impact the lifestyle of the community.

Ken Higgins, 605 Mill Road, stated they bought the place in 2003. The growth in the valley has been encouraged by the County and he gave an example. He added when a person puts a lot of time and money into the property, they want it to be a safe place with no property devalue. It has been encouraged that others can put apartments in the area. The zoning is needed. He added for sale signs are going up everywhere.

Skeeter, 4988 McHugh Drive, has 55 acres, the next largest property after Kim Smith's and is legally agriculture. He asked if lead tests have been conducted on the proposed pit area.

Robert Grudier, 562 Edgerton, stated they moved in late October and when they looked at the house it met the checklist, but if they had seen a working open pit mine near their backyard they would not have bought the home. The worst fear is the neighborhood is going to be destroyed.

Matthew Kowalczyk, 915 Forestvale Road, stated the criticality of the water system noting their well is 45 feet. They moved in just before the flooding. There is a lot of environmental concerns in the area.

Alex Malinauskas, 280 Blue Moon, stated he is not for this.

Harold Crowder, Sun Valley Road, stated his concern about the proposed gravel pit going in and noted his basement has flooded over the years. He installed an extensive system to ensure the home doesn't flood. Has the tax impact on a gravel pit versus him building homes been looked into? He is concerned the neighborhood will be ruined if this is not approved as residential and his well is shallow and he does not want it polluted.

Harold Beggar, 790 Sewell, stated he votes no on Zone District 51 as he doesn't see the reason for two zones one inside the other, once Part 2 Zoning comes.

Mr. Elford, asked how Mr. Smith was able to have two approaches approved without the gravel pit being approved. There is already an extensive amount of travel with the trucks. Mr. Elford was told by the County the two approaches are for the gravel pit.

Ann Marie Robinson, President of the South Forestvale Homeowners Association, stated they cannot wait for Part 2 Zoning, they do not have a problem of overlapping as it will be more restrictive. The proposed pit is in the floodplain and they ask that careful consideration be given when reviewing the floodplain application.

Kimberly Pipes-Sherman, 664 Edgerton Road, stated they purchased 18 acres prior to this coming out. A realtor recently told them he would drop their home value by \$30,000 due to being at ground zero of the gravel pit. The health issues caused by stress in the area is massive. The ground is very porous, it's a heavy wind area, and any opening of the soil will run a dust storm with flying gravel. Mr. Smith by his own mouth has stated he has an in with the County Commission. Mr. Smith had no business buying the property for a quarry when the residents were told it wouldn't be used for anything other than maybe residential. Ms. Pipe-Sherman took back the statement the covenants they are under had many loopholes and fraud, but did say it is not in agreement with all the other covenants for the neighbors and what was expected. They would never have built their house if they knew the neighboring property was going to be sold for a gravel quarry.

Commissioner Good Geise noted it has been stated that County Commissioners have met individually with the property owner regarding uses of the property and she asked each Commissioner if they had done so. Commissioner Hunthausen noted the only conversation was in the hall when Mr. Smith dropped off the DEQ notice and he encouraged him to follow the process; both Commissioner McCormick and Commissioner Good Geise stated they had not had a private meeting with Mr. Smith regarding the gravel pit.

Tom Hirst, 5221 Crescent Moon Drive, asked for clarification on the size of the property determining whether this would go by or not, rather than the number of people.

Archie Harper, 901 Lynn Road, recognized the friendly professionalism of Lindsay Morgan and stated from today's testimony and past meetings it all boils down to a sea of housing with one open space area that could be used for anything other than a gravel pit. He is hearing incompatibility. Mr. Harper agrees with Part 2 Zoning and wishes they had it versus Part 1. He was ready to opt for Part 2, but

there is an individual on a fast track to establish the gravel pit and the concern is the timeliness, so they opted for Part 1 Zoning.

Ms. Morgan reviewed the previously asked questions and noted the following: 1) property not located within the boundaries, the petition did not include properties that were east of McHugh Lane or immediately adjacent north of Mill Road because they are located in Special District No. 13-A, she further explained the slight amendment of the boundaries from the original proposal to alleviate the bisection of three properties by zoning and properties were either fully included or excluded; 2) why is the process taking so long and she gave an extensive review of the 3 step process highlighting the required petition to form the District, under statute the 30-day protest period, with an explanation of the process, and steps 2 and 3 will likely occur together, regulations will not exist until step 3 is completed; 3) why hasn't Mr. Smith been stopped related to occurring gravel work and she noted his property has both 100 year and 500 year floodplain on it, if he proposes to do anything within the 100 year floodplain the County would be involved, a floodplain permit would be required, at this time it is understood that Mr. Smith does not plan to do any work within the 100 year floodplain, work outside of the areas the County does not have jurisdiction, at this time the jurisdiction lies with DEQ; 4) regarding approach permits, property owners can request accesses onto their property, she explained the process and noted she is not award of what Mr. Smith submitted; 5) regarding testing for lead content in the soil, Ms. Morgan would have to find the answer to that; 6) regarding the impact on taxes related to gravel pits versus housing, Ms. Morgan did not have an answer.

Commissioner Good Geise stated public comment is completed.

A motion was made by Commissioner McCormick to adopt resolution to create the District boundaries as proposed, appoint the existing Planning and Zoning Commission to administer the District, and direct staff to move forward with Steps 2 and 3 of the Part I Zoning process. The motion was seconded by Commissioner Hunthausen.

The Commissioners discussed the following: being proponents of zoning to put management tools in place for growth, a big reason for predictability; property rights apply to everyone in the discussion and are all considered; to attend to the health, safety and general welfare of the citizens of Lewis and Clark County; the constitutional duties of the Commission, they hear the public but must follow the law; if the zoning goes through there is no guarantee that there won't be a gravel pit project.

Commissioner Good Geise stated there is a motion on the table. The motion Passed on a 3-0 vote.

#### **Consideration of Filing an Amicus in Support of the Forest Service Willow Creek Vegetation Project. (Roger Baltz)**

Roger Baltz, Chief Administrative Officer, presented the consideration of filing an Amicus in support of the Forest Service Willow Creek Vegetation project and added County Attorney Leo Gallagher asked if the Commission would be interested in taking this action.

KD Feeback, Attorney, stated the issue of the Willow Creek sale is centered in Lincoln and is situated south of the Blackfoot River on Dalton Mountain Road. He discussed the map placed in the decision memorandum by the Forest Service as an illustration of tree mortality caused by the pine beetle, the area is a fire trap. The forest service in conjunction with the Healthy Forest Restoration Act and the categorical exclusions part and parcel to the Act, and at the request of Governor Bullock, proposed the project to reduce the potential of wildfire in the urban interface, to promote healing of the forest and to mitigate against the additional insect losses.

The Alliance for the Wild Rockies and the Native Ecosystems Council generally protest all these sorts of actions, filed a complaint in Federal District Court to stop the project.

Mr. Feeback stated going over Flesher Pass both sides of the road are dead timber and that extends to the east to the Willow Creek sale. He added the in the Blackfoot Valley prevailing winds during the

summer are always from the west in the afternoon due to the elevation change, noting that fire in that area will always travel to the west. The contributions to global warming that arises from the extensive wildfires such as those in 2017 vastly exceeds the driving of cars.

Mr. Feedback feels when the County, on behalf of its residents, wags in on the decision to get the dead wood out of the forest or not, it is good for the judges to have a sense of people's thoughts. Mr. Feedback recommends the County consider this.

No public comment was received.

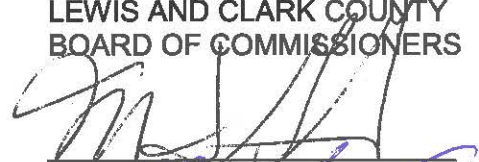
A motion to Approve was made by Commissioner McCormick and seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

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

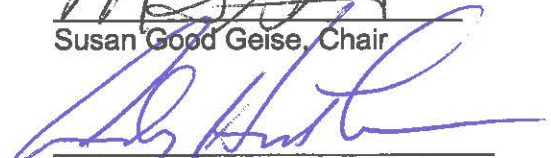
**Adjourn**

There being no further business, the meeting adjourned at 11:54 am.

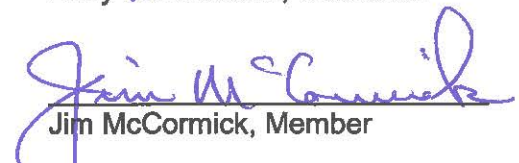
LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS



Susan Good Geise, Chair



Andy Hunthausen, Vice Chair



Jim McCormick, Member

ATTEST:



Paulette DeHart, Clerk of the Board