



PUBLIC MEETING

January 8, 2019
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, January 8, 2019, at 9:00 AM in Commission Chambers Room 330.

Roll Call

Chairman Jim McCormick called the meeting to order at 9 a.m.

Commissioner Susan Good Geise and Commissioner Andy Hunthausen were present. Others attending all or a portion of the meeting included Roger Baltz, Jason Danielson, Nicho Hash, Greg Holmlund, Peter Italiano, Charles Lane, Reese Martin, Lindsay Morgan, Sam Neill, Tammy Potter, Connie Cole, David Cole, Joyce Evans, Mike Muelle, Dan Danielsen, Val Jaffe, Marcus Strange, Kelly Tuck, Jestina Eriksen, Shannon Hall, Jon Largis, Benita Largis, Mary Hollow, Jennifer Utick, Jim Strachan, Steve Utick, Bob Utick, and Nadine McCarty, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

There were no consent action items.

Grant Application to the State of Montana Board of Crime Control. (Tammy Potter)

Greg Holmlund, Sheriff's Office Deputy presented the grant application to the Montana Board of Crime Control in the amount of \$88,491.69 to be used for the salary and operating costs of the Sheriff's Office Violence Against Women Act deputy. Federal funds requested total \$66,369 with matching funds of \$22,122 to be paid from the sheriff's operating budget. The grant has been in existence for ten years in the county. The grant period is July 1, 2019 through June 30, 2020.

Deputy Holmlund gave an overview of the new strangulation law and thought the domestic numbers would go down because the number of strangulation cases would be up. But there has been a 54% increase in domestic violence charges and 54 strangulation cases. There are various things driving the statistics to include: drugs and alcohol, meth is always around and they are seeing an increase in heroin; a better job of investigating and prosecuting the cases. Working with advocates and being able to work with the victims more people are apt to report. Deputy Holmlund gave an overview of the available resources for victims with the Friendship Center being the top one that he works with.

No public comment was received.

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

Grant Award to Lewis and Clark County from Montana Disaster and Emergency Services. (Reese Martin)

Reese Martin, Disaster and Emergency Services Coordinator presented the grant award agreement with the Montana Disaster and Emergency Services Department for airport emergency response training services at the Rocky Mountain Emergency Services Training Center. The training center will train rural fire departments in response to fires with aircraft. The grant is in the amount of \$39,192 with a soft match of \$9,798. Staff recommends approval of the grant agreement with Montana Disaster and Emergency Services.

Commissioner Good Geise asked about the coordination of the training and Mr. Martin explained they will be training the rural fire departments related to aircraft fires and the related hazardous materials that can be released. Mr. Tuck can give training specifics.

Mr. Martin gave an overview of the fire training center and noted the Salt Lake City fire training center recently closed and it is expected those looking for this type of training will come to Helena. The grant program will allow for fire departments from around the nation to partake in the training.

Kelly Tuck, Emergency Services Coordinator for the Helena Airport and the Coordinator for the Rocky Mountain Emergency Services Training Center gave an overview of the training center and noted it was developed by the airport for fire training for FAA certification and recertification of airport and aircraft firefighters throughout the nation. There are three of these training centers west of the Mississippi River in Dallas/Ft. Worth, TX, San Bernardino, CA and Helena, MT.

Mr. Tuck noted his expertise is in fire protection and when he got to the airport he recognized a deficiency in fire protection at all airports. Chief Tuck researched the availability of funds and pursued the development of the training center allowing for training in aircraft crash and rescue at not cost to fire departments. The training facility has been in existence for 23 years.

No public comment was received.

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

Resolution 2019-4 Naming Yorkie Way. (Jason Danielson)

Jason Danielson, City-County Address Coordinator presented the resolution to name an unnamed road located north of Canyon Ferry Road and traveling south of Bahny Road for approximately 257 feet. As per Resolution 2004-16, Section 76-1-102, MCA, enable local government to enact procedures which promote health, safety, and general welfare of the public. Existing Road Naming Conventions 4.13.1.a (Road Naming and Addressing Standards, Lewis and Clark County Public Works Manual) note the every road with three or more structures shall be given a separate, unique name.

In November of 2018, the City-County Addressing Office received a signed petition from Timothy and Julie Theonnes to name the road Yorkie Way. Only one petition was received from one of two adjacent property owners and subsequently did not receive the majority. Staff recommends the resolution naming Yorkie Way.

Notification letters will be sent to each property owner confirming his/her updated address with a separate notification email sent to service providers. County Public Works will also be notified to create and install the road sign.

No public comment was received.

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

Resolution 2019-5 Naming Sloan Lane. (Jason Danielson)

Jason Danielson, City-County Address Coordinator presented the resolution to name an unnamed road located east of Sucker Creek Road and traveling approximately 900 feet. There are five adjacent property owners and all have been notified. A petition form was received from three of the five property owners requesting Sloan Lane. Staff recommends approval of the resolution naming Sloan Lane.

Notification letters will be sent to each property owner confirming his/her updated address with a separate notification email sent to service providers. County Public Works will also be notified to create and install the road sign.

Mr. Danielson gave an overview of the road naming process review.

No public comment was received.

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

Resolution 2019-6 Approving Funding of the Open Lands Program Peaks to Creeks Acquisition Project. (Planner: Sam Neill)

Sam Neill, Planner I presented the resolution to approve funding of the Peaks to Creeks Seven Mile and Ten Mile Creek property acquisitions sponsored by Prickly Pear Land Trust in the amount of \$340,000. The resolution also includes a management agreement with Prickly Pear Land Trust. A review of the due diligence materials was conducted by County staff and legal staff. Recommendation of the approval was made by the Open Lands Citizen Advisory Committee. On November 29, 2018 the project was presented to the County Commissioners and a 30-day public comment period was opened which closed on December 30, 2018. Comment received was very positive in favor of the project. Staff recommends approval of the resolution as well as the management agreement with Prickly Pear Land Trust.

Mary Hollow, Executive Director of Prickly Pear Land Trust thanked everyone for all of the work on the project. The project is extensive and complicated but is great for the citizens of Lewis and Clark County.

PUBLIC COMMENT -

Connie Cole, Chair of the Open Space Citizen Advisory Committee thanked everyone for the work that has been done and the support of the Commission.

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

Open Lands Project Presentation for Falls Creek Acquisition. (Planner: Sam Neill)

Sam Neill, Planner I presented the Open Lands project proposal for the Falls Creek Acquisition sponsored by the Rocky Mountain Elk Foundation. On September 26, 2018 a complete level two application for funding was submitted with a general presentation on November 7, 2018 to the Open Lands Citizen Advisory Committee (CAC). A recommendation for approval was made by the CAC contingent upon affirmation by the County Attorney's Office that the application meets due diligence, as well as all legal requirements. The due diligence requirements are being reviewed by the County Attorney's Office. The applicant has submitted all necessary documentation.

The four properties are currently owned by Mr. Daniel Barrett. The appraisal on the properties is \$2,460,000. About \$870,000 has already been raised by the Rocky Mountain Elk Foundation for the acquisition and are continuing to raise funding. Rocky Mountain Elk Foundation submitted a level one application in July of 2018 and have been moving through the standard review process based on the Open Lands Program Guide.

The project is located along the Rocky Mountain Front approximately 30 miles southwest of Augusta and consists of 442 acres and is contiguous to Helena-Lewis and Clark National Forest. A cabin on 160 acres currently exists on the property but will not be included in the acquisition, was not included in the appraisal and will be sold for private purchase. The Rocky Mountain Elk Foundation plans on purchasing the properties to be conveyed to U.S. Forest Service. Following the presentation, a 30-day public comment period will be opened.

Mike Mueller, Rocky Mountain Elk Foundation provided a slide presentation. The open space projects are very expensive. The Falls Creek project has had many tours. Mr. Barrett has worked with the Foundation to make the project work in removing the 160 acres with the family cabin to sell privately. The property has been in the Barrett family for generations and have been great stewards. The purchase option with the Barrett family is for three years and began last year. The 160 acres is listed with a realtor.

There is legal access to the property off the Dearborn Canyon Road. Mineral rights are intact and owned by the U.S. Government, except 20 acres along the Falls Creek that is owned by the Barrett family. The Rocky Mountain Elk Foundation will purchase all of the property with the minerals and the 20 acres. The Lewis and Clark National Forest will be the new owner. The Forest Service does not plan to maintain the property as wilderness.

On the property there is a 40-50 foot beautiful waterfall of Falls Creek, the Falls Creek Canyon runs nearly a mile long on the eastern edge of the property. There is Bureau of Land Management land and private ownership around the property. There are forty plus residents east of Falls Creek and there has been a lot of support for the project.

There is a \$2.46 million fundraising goal and have had good media coverage. There has been a lot of interest from outdoor recreational groups. Fish, Wildlife and Parks believes public access will allow them to manage the elk herd in the area. The property will provide a unique fishing opportunity. There are about 0.2 miles of the Dearborn River along the northern part of the property. There are other partners interested in helping with development of the site to prepare it for the public such as Trout Unlimited. This is a public access project and is very important.

The remaining amount of money needed is \$1.588 million and is the request to the County. There are other funding sources they are looking at as well. There will not be public access until the project is completed.

PUBLIC COMMENT -

Connie Cole, Chair of the CAC stated they wanted to thank the Rocky Mountain Elk Foundation and appreciate the work Mr. Mueller has done with landowners to bring these projects to the CAC. The CAC recommendation reflects that the project meets all of the requirements of the Open Space Bond plus the added value of the public access.

Marcus Strange, Central Montana Field Rep for the Montana Wildlife Federation stated they are an outdoor recreation and conservation advocacy group and noted the project is incredible and they are in support of the project. This would be an asset to the outdoor community. Should funds become available the Montana Wildlife Federation would support the project financially.

A motion was made by Commissioner Good Geise to open the 30-day comment period with the intent to support the project allocating \$1 million at the end of the comment period and seconded by Commissioner Hunthausen.

Commissioner Good Geise noted the project will open up 26,000 acres of public land that is currently inaccessible. There is about a \$3 million balance in the Open Space Bonds available for

projects like this with other project requests coming in and is the reason for the \$1 million allocation at this time.

Commissioner McCormick stated the motion on the table is to open a 30-day comment period with the intent to allocate \$1 million. The motion Passed on a 3-0 vote.

Resolution 2019-7 Expanding Boundaries of Special Zone District No. 49.
(Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner III presented the resolution to expand the boundaries of landowner-initiated Special Zoning District No. 49, also referred to as the Valley View Heights Planning and Zoning District in the Northeast Helena Valley. The proposed expansion would expand the District boundaries to the north of Snowdrift Road, to the west of Collins Drive and to the south of Fantasy Road.

On November 27, 2018 the Commission voted 2-1 to expand the boundaries of the District as proposed by petitioners which initiated a 30-day protest period that ended at 5:00 pm on Thursday December 27, 2018. During the protest period staff received 17 protests, about 25 signatures with one being withdrawn at the request of both property owners. After review of the protests staff found 46.8% of titled property owners properly noticed their opposition. A successful protest requires a minimum of 50% of signatures of titled property owners. Because the threshold has not been met the Commission may choose to move forward the expansion of the boundaries. If the resolution is adopted, staff requests that the Planning and Zoning Commission be appointed to administer the expanded district with direction to staff to move forward with step two, the neighborhood plan development pattern.

Commissioner Good Geise asked how much of the land mass is owned by protesters and Ms. Morgan noted the acreage of the entire District is 1,125 acres with 526 acres in opposition. There are approximately 81 property owners in the District.

Joyce Evans, 2276 Tea Road stated her appreciation for all of the work and noted they have made it clear as initially there was close to 65 or 66% of the people in opposition with a few protesting out, but she believes the threshold was met.

The original zoning began in the fall of 2013 and was approved in 2016. This project started in September of 2018.

PUBLIC COMMENT -

Shannon Hall, lives on Snowdrift Road stated she does not want another North Hill situation. Water is their biggest concern. Ms. Hall is not against the development, but is about quality of life. There is a responsibility to manage development that does not impact other residents.

Justina Erickson, Collins Road stated they originally signed the petition but was given incorrect information from another individual that had a petition going that counteracted Ms. Evan's petition and they withdrew. They want to stay at a minimum of 10 acres and they are already seeing a drop in their water pressure.

Dave Cole, 6040 Ferry Drive stated they purchased their 40 acres in 1976. They heard about the zoning effort too late to participate in the original zoning district, but were told they could participate if there was an amendment. Mr. Cole referenced the Part 2 zoning process and noted that fifteen years ago there was such a process initiated by the County and stated that he served as Planning Board Chair. Two public meetings were conducted, a polling of the residents of the area was done with a 10 acre parcel size being the consensus, a formed working group. After two years the County stopped the process with no explanation. Would like to preserve the 10-acre density related to the lack of available water.

Steve Utick, 2950 Fantasy Road stated he was one of the main people leading the effort to protest this out and noted there were 40 to 60 acres more of people that would have signed the protest had they been able to get the documents to them and back in time. A lot of misinformation has spread in the area and Mr. Utick expanded on discussions he had with residents. The zoning has pit neighbor against neighbor. Through the protest it has been proven there is still a large part of the residents that do not want this. Mr. Utick included in his presented packet a copy of the original well log report when Ms. Jaffe's well was drilled on September 24, 1993 and reviewed the number of wells drilled then and the number since, static water levels of her well and noted Ms. Jaffe's well is one of the three remaining active monitored wells. Mr. Utick stated provided data has shown decreasing water levels are not as bad as being presented and reviewed the Gwick statistics on wells in the area. Mr. Utick asked that the Commission reviews all of the data, the realities and do what is right.

Bob Utick, stated when they started selling land there was a covenant that lots could not be divided under 5 acres and it is still in effect. So the comment spoken that they do not want to see a subdivision as is west of the interstate is false.

Mr. Utick stated he does not like zoning, but if it needs to exist Part 2 zoning is the way to go as it is not self-serving as is citizen initiated zoning. Mr. Utick stated he follows the subdivision laws and noted the zoning is occurring to circumvent subdivision rules.

Valerie Jaffe, 2623 Tea Road stated she is available to answer any questions and give clarification. She is one of those that has been made a target for provided information that comes from her background as a water information specialist.

Commissioner Hunthausen confirmed with Ms. Morgan that the proposed zoning was done properly. Extensive discussion was had between Commissioner Good Geise and Commissioner Hunthausen on the legal proposal before the Commission.

Nicho Hash, Deputy County Attorney reminded the Board of the case law that the Commission is guided by public comment and the growth policy. That one of the components of the protest exists is if there is a larger amount of the real estate property that regardless of that wish is to protest out then they may do so. Mr. Hash noted that all the statutory check marks were laid out. Mr. Hash read from the case law.

Commissioner McCormick stated the growth policy, recommends a 10-acre minimum in the Rural Growth Area.

A motion was made by Commissioner Hunthausen to approve the resolution, include the exhibits as well as recognize that the existing Lewis and Clark Planning and Zoning Commission be appointed to administer the District as well as ask staff to amend the neighborhood plan and development pattern for the District in accordance with the regulations and the law. The motion was seconded by Commissioner Good Geise for discussion purposes.

Commissioner Good Geise stated Part 2 zoning is what is needed as quickly as possible and the petitioners would have the relief that is sought.

Commissioner Hunthausen would prefer the implementation of Part 2 zoning, but the presented proposal has been done properly.

Commissioner McCormick stated there is a motion on the table to approve the resolution. The motion was denied on a 1-2 vote with Commissioner McCormick and Commissioner Good Geise voting against.

Commissioner Good Geise asked how quickly the Part 2 zoning process could begin.

Peter Italiano, Director of Community Development and Planning stated there are two parts involved the mechanics of the proposed document and the drafting, then there is ensuring the public is adequately informed. A realistic timeframe would be within a year.

Resolution 2018-113 Creating Zoning Regulations for Special Zoning District No. 50 (Tabled 12/27/18) (East North Hills Planning and Zoning District) (Planners: Peter A. Italiano and Lindsay A. Morgan)

Lindsay Morgan, Planner III presented the resolution to establish regulations for Special Zoning District No. 50 located east of and adjacent to Ferry Drive, south of and adjacent to Tea Road. On November 28, 2018 the Planning and Zoning Commission recommended approval of the proposed regulations as prepared by staff and as amended by the Planning and Zoning Commission. The County Commission created the District boundaries in September of 2018, the Planning and Zoning Commission adopted the Neighborhood Plan/Development Pattern, and the final step is for the County Commission to adopt the land use regulations to implement the adopted Neighborhood Plan/Development Pattern.

Ms. Morgan stated the draft regulations include general provisions, zoning district map, administration of the district and definitions. Home occupations were discussed during the Planning and Zoning Commission meeting.

Commissioner Hunthausen asked if the regulations are similar to other regulations in the area and Ms. Morgan noted they are similar.

Commissioner Good Geise asked if Ms. Jaffe had the opportunity to present her suggested changes and Ms. Morgan noted they had met and discussed the suggestions. There were some changes from her suggestions, but nothing substantive.

No public comment was received.

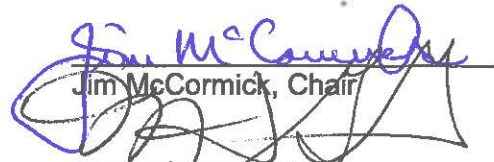
A motion to Approve was made by Commissioner Hunthausen and seconded by Commissioner Good Geise. The motion Passed on a 3-0 vote.

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 11:37 am.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Jim McCormick, Chair

Susan Good Geise, Vice Chair


Andy Hunthausen, Member

ATTEST:


Paulette DeHart, Clerk of the Board