



PUBLIC MEETING

October 13, 2015

MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, October 13, 2015, at 9:00 AM in Commission Chambers Room 330.

Roll Call

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

Commissioner Susan Good Geise was present. Commissioner Mike Murray was excused on County business. Others attending all or a portion of the meeting included Eric Bryson, Jason Danielson, Greg McNally, Lindsay Morgan, Kevin Hamilton, Kim Smith, Ryan Casne, Aaron Douglas, and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance

Consent Action Items

- a. Public Meeting Minutes: September 10 and 17, 2015. (Nichole Nisbet)

Eric Bryson reported on the consent action item 2a and recommended approval.

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 2-0 vote.

Resolution 2015-145 Renaming Smelter Rd. to Hulst Rd. (Jason Danielson)

Jason Danielson, Address Coordinator, presented resolution 2015-145 renaming Smelter Road to Hulst Road. The Commissioners held a public hearing regarding the request to rename Smelter Rd and voted to grant approval for the intent to rename Smelter Rd. to Hulst Rd. from the intersection of Highway 282 traveling northwest approximately ½ mile to a road closure sign.

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 2-0 vote.

Resolution 2015-146 Renaming a Segment of E Old Highway 12 to Tulip St. (Jason Danielson)

Jason Danielson, Address Coordinator, presented resolution 2015-146. The Commissioners held a public hearing regarding the request to rename E. Old Highway 12 voted to grant approval for the intent to rename E. Old Highway 12 to Tulip St. beginning approximately 210 feet to the east from the intersection of Lake Helena Dr.

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 2-0 vote.

Resolution 2015-147 Renaming N. Fourth St. to Wylie Dr. (Jason Danielson)

Jason Danielson, Address Coordinator, presented resolution 2015-147 renaming N. Fourth Street to Wylie Drive. The Lewis and Clark County Dispatch Center has notified Addressing of a public safety issue along N Fourth St and Wylie Drive. Wylie Drive and N Fourth St should not coexist as valid road names along the same road. A road name discrepancy may cause inaccurate results and/or confusion during an emergency 911 call to dispatch. If approved, 112 N Fourth St will be changed to 112 Wylie Dr. and the one property being affected has been notified of the potential change, and have confirmed in writing they do not oppose the address change.

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 2-0 vote.

Resolution 2015-148 Renaming Diehl Dr. to Diehl Ranch Dr. (Jason Danielson)

Jason Danielson, Address Coordinator, presented resolution 2015-148 renaming Diehl Drive to Diehl Ranch Drive. The Commission held a public hearing regarding the request to rename Diehl Dr. and voted to grant approval for the intent to rename Diehl Dr. to Diehl Ranch Dr. from the intersection of E. US Highway 12 and Canyon Ferry Rd. Staff recommends approval of the resolution.

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 2-0 vote.

Resolution 2015-149 Renaming Old Lake Helena Dr. to Grove Dr. (Jason Danielson)

Jason Danielson, Address Coordinator, presented resolution 2015-149 renaming Old Lake Helena Drive to Grove Drive. The Commissioners held a public hearing regarding the request to rename Old Lake Helena Dr. and voted to grant approval for the intent to rename Old Lake Helena Dr. to Grove Dr. Staff recommends approval of the resolution.

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 2-0 vote.

Request for Extension of the Subdivision Improvements Agreement for the Timberworks Estates Subdivision, Phases II and III. (Applicant: Frontier Builders, Inc., (Glenn and Matthew Hayes)) (Planner: Greg McNally)

Greg McNally, Planner II, presented the request to extend the Subdivision Improvements Agreement (SIA) for the Timberworks Estates Subdivision, Phases II and III. The SIA was originally entered into on March 14, 2013. At the Subdivider's request, the SIA was previously extended on November 13, 2013 and October 16, 2014. All requirements of the current SIA must be complete by October 14, 2015. The Subdivider has not yet completed the following improvements as required by the SIA, payment of the percentage of impact for the impacts to N. Montana Avenue per Phase II, Condition No. 9 and Phase III, Condition No. 7. It was noted that should the applicant opt to guarantee future payment of the amount, the guarantee must be valid for three years, after which time the County will collect on this amount. With this language in the current SIA the County could only extend this to March 14, 2016. The applicant favors extending this out as far as possible however understands the current language as stated in the SIA.

Commissioner Geise asked if there was an obstacle to extending this out another year.

Greg McNally stated the obstacle is the current language in the SIA. The applicant could request an amendment to the SIA for a further extension and noted the letter of credit held by the County is good through November 14, 2016.

PUBLIC COMMENT-

Ryan Casne, the engineer on the project, stated that the County accepted the letter of credit through November 14, 2016 and should honor that through the date.

Greg McNally stated that the letter of credit is good through November and is the method of guaranteeing the SIA however the request is to extend the date of the SIA.

A motion was made by Commissioner Geise to extend the Subdivision Improvements Agreement to March 14, 2016 and seconded by Commissioner Hunthausen. The motion Passed on a 2-0 vote.

Proposed Garden Valley Subdivision. (Applicant: Kim Smith Properties, LLC) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented the proposed 37-lot to be known as Garden Valley Subdivision, single-family residential Subdivision located south of and adjacent to John G. Mine Road, and west of and adjacent to North Montana Avenue. If approved, the existing tract of land will be divided into 37 lots, each for one single-family dwelling. The lots will range in size from 1.00 to 3.14 acres, and each will be served by an individual well, an individual on-site wastewater treatment system, and utilities. Direct access to the lots will be through an internal road network connecting to John G. Mine Road. The applicant has requested two variances from the Lewis

and Clark County Subdivision Regulations for the following requirements: (1) Chapter XI.F.7: 3:1 lot length to width ratio, and (2) Chapter XI.F.9: double-frontage lots. In order to meet parkland requirements, the applicant is proposing to pay cash in-lieu of dedicating parkland. The property is currently vacant and there are no existing covenants. There has been one written comment received from an adjacent property owner. Project issues noted is the Helena Valley Irrigation District's Canal and Bureau of Reclamation Underground Pipe Drainage Easements. The Helena Valley Irrigation District (HVID) canal is located along the north boundary of the proposed Subdivision, which has an 80-foot wide easement. The County Subdivision Regulations classify irrigation ditches and canals as Class IV water bodies and require that a minimum 50-foot wide setback and 30-foot wide buffer along the water course be graphically shown and described on the plat. In addition, a permit is required for crossing an HVID canal. According to the application, Special Use Permit No. 2014-8 has been issued by the HVID for access across the canal for proposed Garden Valley Drive and Truck Farm Drive. There was a concern addressed during the Planning Board hearing and a condition of approval was drafted to address the concern about legal access. The condition recommended by staff stated that the HVID acting on behalf of the Bureau of Reclamation (BOR) shall sign off on a County road easement within all BOR easements where necessary. There are also two Bureau of Reclamation underground pipe drainage easements located on-site: a 100-foot wide easement that runs along and under proposed Garden Valley Drive, and a 90-foot wide north-south easement that lies close to the east property boundary of the proposed Subdivision between Lots 10-14. According to the application, Garden Valley Drive, one of the proposed internal access roads, will be constructed within and adjacent to the existing 100-foot wide, BOR underground pipe drainage easement. According to the preliminary plat, the easement for this road will extend approximately 30 feet into the BOR easement. Special Use Permit No. 2014-9 from the HVID allows proposed Garden Valley Drive to encroach 30 feet into this BOR easement along its east side. In addition, this permit allows for 10 driveway crossings, two road crossings, and one cul-de-sac crossing over the BOR easement. A new finding was added by the Planning Board in regards to the findings related to the special use permit. NorthWestern Energy (NWE) has stated concerns with the utility easement on Garden Valley Drive being placed directly over a BOR drainage, and said that depending on what is currently installed in the area, this could result in problems with excavating and installing facilities if the BOR currently has facilities in the area. The application for the proposed subdivision does provide for some utility easements within the subdivision; however, prior to final plat approval, utility easements will have to be provided in accordance with the Lewis and Clark County Subdivision Regulations where utilities are, or will be, installed and where necessary for the future extension of services. It was noted that irrigation canals and ditches are also considered an attractive nuisance for small children and pets, and in order to effectively restrict their access to the HVID canal, the applicant should be required to install a fence along the southern edge of the easement for the canal. In addition, there is barbed-wire fencing that runs through the HVID canal, as well as drop structures located along the existing bridges over the canal. The next project issue addresses Prairie Dogs as upon inspection of the property by Staff on September 1, 2015, a Black-tailed Prairie Dog colony was observed on-site. The Black-tailed Prairie Dog is listed as a Species of Concern, but is also listed as a "nuisance" species. Mitigation of impacts to the Black-tailed Prairie Dog population on-site is not required by State or federal regulations; however, the Black-tailed Prairie Dog is listed as a Species of Concern and this species is ranked S3 in the Montana Species Ranking Code, which means that the species is regarded as being potentially at risk because of limited and/or declining numbers/range and/or habitat even though it may be abundant in some areas. Planning staff has spoken with the Montana Department of Fish, Wildlife and Parks (FWP) regarding the Black-tailed Prairie Dog, and according to FWP, there are organizations that will humanely trap

and relocate prairie dogs, such as the Humane Society of the United State Wildlife Innovations Response Team. Another option that could be considered is voluntarily restricting construction development on the area of the Black-tailed Prairie Dog colony until June 1 st of every year, which will allow the prairie dog young to mature and not get buried during development activities. The Planning Board recommended to remove a condition of approval that states that prior to filling the final plat, the applicant shall prepare, submit and implement a plan for mitigation of the impact on the Black-tailed prairie dog colony located within the subdivision or prior to filing of the final plat, the applicant shall submit a letter from FWP stating that the subdivision will not impact the Black-tailed prairie dog colony. After review the draft language the Planning Board recommended removing the the condition that addresses the prairie dog colony. The next project issue is addressed in the variance request as Lot 1 has an average length greater than three times its average width. Therefore the applicant has requested a variance from the following requirement, Chapter XI: F.7 which states, no lot shall have an average length greater than three times its average width. According to the preliminary plat, there is a 111.40-foot wide by 620-foot long section of proposed Lot 1 that is completely encumbered by two easements: an 80-foot wide, Bureau of Reclamation easement for the HVID canal and a 30-foot wide easement for John G. Mine Road. The property lying north, south, and east of this section of proposed Lot 1 is located outside of the proposed Subdivision. The Planning Board did recommend approval of this variance request.

The next project issue is addressed in the variance request as Lot 4 will be adjacent to John G. Mine Road on its north side, and Truck Farm Road on its west and south sides. Therefore the Applicant has requested a variance from the following requirement: Chapter XI: F.9 which states through or double frontage lots are prohibited except where necessary to provide separation from arterial or collector streets, or to overcome specific disadvantages of topography or orientation. A "no access" restriction will be placed along John G. Mine Road, prohibiting direct access on this roadway. In addition, the Helena Valley Irrigation District has a canal and easement located on the north side of this Lot that also restricts access to the north. The property to the west and south of Truck Farm Drive, where it lies adjacent to proposed Lot 4, is located outside of the proposed Subdivision. The Planning Board did recommend approval of this variance request. The Planning Board voted to recommend approval of the subdivision with the amended findings of fact and subject to the amended conditions of approval.

Commissioner Geise asked about the written comment received in regards to concerns of cash in-lieu of dedicating parkland and the resident concerns about people accessing her property to play.

Lindsay Morgan stated the written comment received was from the adjacent property owner and her concerns were in regards to the subdivision not having parkland within the subdivision which would lead kids to travel along N. Montana to a nearby park. It was further noted that the Planning Board did state concerns about parks in the valley as residents will have to travel to access parks.

PUBLIC COMMENT-

Ryan Casne, the applicant's engineer, stated that condition of approval no. 18 in regards to prairie dogs should be removed as there are no state or federal regulation that recommends mitigation. The new condition of approval presented regarding additional easements being granted by the HVID for County road easements on within all BOR easements where necessary would be hard to comply with and objects to the condition.

Commissioner Hunthausen asked for further clarification on Mr. Casne's objection.

Ryan Casne stated the HVID has already granted all permits needed for the project. He does not believe the HVID will need anything further. The applicant has been granted approval to cross their structures, the addition of the condition is redundant and does not feel the HVID will be inclined to grant an additional easement over the BOR easement.

Commissioner Hunthausen asked Ms. Morgan about the new condition and to further explain the need for the condition.

Lindsay Morgan stated that County Subdivision Regulations require you to have legal and physical access to all properties. The condition was brought forward to ensure you can guarantee legal access to the properties and did not feel the permit was enough to ensure that access therefore staff drafted the condition due to concerns if the permit was revoked the subdivision may not have a legal right to cross the canal. It is uncertain if you can dedicate a County road easement within that HVID canal crossing.

Ryan Casne stated conditions of approval number 8 and 21 do not allow for financially guaranteeing of the prorated share of offsite road improvements. The applicant would like the ability to financially guarantee that in conditions of approval.

Lindsay Morgan stated it is allowed under the regulations to financially guarantee the offsite road improvements. It was an oversight of staff and was not intentionally left out and will be fixed.

Ryan Casne addressed the NWE comments and concerns and proposed that his client grant an utility easement on the back of each lot.

Commissioner Hunthausen asked about the property to the south that the applicant owns and if there is a greater plan.

Ryan Casne stated that there is no larger plan at this time until something changes with exempt wells and water rights it is not feasible to have a second phase.

Kim Smith, the applicant, stated that if the land is developed there is a potential to do 5 acre tracts to the South for connectivity. He stated that there was a subdivision that was granted access across the HVID canal in the past as he owns land and had to get a permit for access. The condition of approval contradicts the protocol of the HVID in his opinion and states he grants the County the road easements when the final plat is signed not the BOR. He stated he would be happy to let anyone relocate prairie dogs and indicated that construction will not start until next spring. He addressed the fencing along the HVID canal and the lower section is 3 inch wire squares that is meant to keep children out. Guardrails will also be on the crossings. He also stated that the Park Board generally likes money over parkland and in his experience has taken cash in-lieu over parkland.

Upon no further testimony or comment, Commissioner Hunthausen stated that the public comment is now closed.

A motion was made by Commissioner Geise to table the item until the regularly scheduled meeting on October 27, 2015 and seconded by Commissioner Hunthausen. The motion

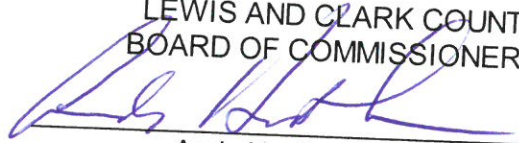
Passed on a 2-0 vote.

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 10:25 am.

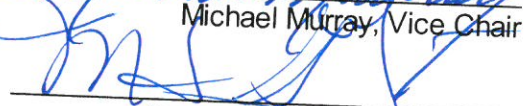
LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Andy Hunthausen, Chairman

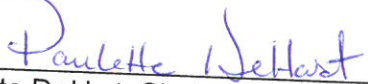


Michael Murray, Vice Chair



Susan Good Geise, Member

ATTEST:



Paulette DeHart, Clerk of the Board