



## **PUBLIC MEETING**

October 18, 2018  
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, October 18, 2018, at 9:00 AM in Commission Chambers Room 330.

### **Roll Call**

Chairman Andy Hunthausen called the meeting to order at 9:00 a.m.

Commissioner McCormick and Commissioner Susan Good Geise were present. Others attending all or a portion of the meeting included Roger Baltz, Marni Bentley, Jeni Garcin, Peter Italiano, Charles Lane, Lindsay Morgan, Audra Zacherl, Tammy Potter, Laura Erikson, Bernard Bodt, Gary Burnham, Brian Coplin, John Dayton, Melanie Dayton, Matthew Fitch, Gaylynn Wagner Flocchin, Christel Harrison, Linda McClure, Bonnie Parrett, Chuck Parrett, Peter J. Petersen, Kathryn Poston, John Ramirez, Orlan Strom, Shane Whyte, Dave Wood, Pat Wood, Michael Woodel and Nadine McCarty, Recording Secretary.

### **Pledge of Allegiance**

Everyone recited the pledge.

### **Consent Action Items**

- a. Vendor Claims Report for Week Ending October 19, 2018. (Marni Bentley)
- b. Resolution 2018-91 Requesting Prosecutorial Assistance. (Leo Gallagher)

Roger Baltz reported on consent action items 2 a-b and recommended approval.

No public comment was received.

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

### **Bid Opening. Public Sale of Bridge Materials. (Audra Zacherl).**

Roger Baltz, Chief Administrative Officer was informed by Audra Zacherl that no bids were received and there is no action necessary today. The bridge materials bid offer was posted in newspapers and different locations, primarily around Augusta.

Commissioner Hunthausen noted that the bridge materials are from a bridge in the Augusta area that was damaged by the flood and before the county can surplus the materials they must be offered to the public in a bid.

No public comment was received.

**Contract Between Lewis and Clark County and Best Cleaning Company, LLC. (Tammy Potter)**

Tammy Potter, Sheriff's Department Finance Coordinator, presented the contract with Best Cleaning Company, LLC in the amount of \$2,930 annually. The contract is for janitorial services to be provided at the Lewis and Clark Search and Rescue Facility. The services will be provided monthly and possibly on an on-call basis when other agencies use the building. Staff recommends approval of the contract.

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.

**Contract Between Lewis and Clark County and Big Sky UAV, LLC. (Lindsay Morgan)**

Lindsay Morgan, Planner III, presented the contract with Big Sky UAV, LLC for aerial imaging services with computer image processing and mapping. The contract is in an amount not to exceed \$1,500 with work to begin upon approval and to continue through November 30, 2018. Staff recommends approval of the contract with Big Sky UAV, LLC.

Charles Lane, Deputy County Attorney stated this procedure is being conducted with authorization under state law and notification to the landowner.

No public comment was received.

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

**Draft Fort Harrison Compatibility Regulations, Fort Harrison Rural Growth Area Zone District Regulations and Fort Harrison Urban Growth Area Zone District Regulations and Maps (Planner: Lindsay A. Morgan)**

Lindsay Morgan, Planner III, presented the draft of the proposed Military Affected Area (MAA), Fort Harrison Rural Growth Area Zone District, and Fort Harrison Urban Growth Area Zone District. Ms. Morgan gave an overview and background of Fort Harrison to include its size, employment, training lands and assets, veteran cemetery, and the VA medical complex.

In 2012, grant monies were awarded for the purpose of studying the impacts of development to both Fort Harrison and the Limestone Hills Training Area. The Joint Land Use Study (JLUS) was a cooperative land use planning effort between Lewis and Clark County, Broadwater County, the City of Helena, the City of Townsend, and the Montana National Guard/Fort Harrison to develop a set of recommendations that would prevent or mitigate encroachment in areas surrounding Fort Harrison and the Limestone Hills Training Area. The JLUS was completed in December of 2014 with one of the recommendations to establish a MAA around Fort Harrison. In March of 2017, Lewis and Clark County updated the Lewis and Clark County Growth Policy - Helena Valley Area Plan to include Chapter 7 regarding the JLUS. The next step in implementing the recommendations is to establish regulations in compliance with the Growth Policy. In August of 2017, staff presented the draft MAA and Zone District Regulations to the Helena-Lewis and Clark County Consolidated Planning Board (Planning Board). At that time the Planning Board recommended approval of the document. In September of 2017 a staff report was distributed to the County Commissioners outlining the criteria for establishing proposed MAA and Zone District Regulations. Five public hearings were held by the Commission between September and December of 2017. At the conclusion of the final hearing on December 7, 2017, the Commission directed staff to separate the MAA regulations from the Zone District regulations to alleviate confusion expressed by the public regarding the combined set of regulations. Staff has since completed the task by preparing the three regulations.

The draft Fort Harrison Compatibility Area (FHCA) Regulations, Fort Harrison Rural Growth Area (FHRGA) Zone District Regulations, Fort Harrison Urban Growth Area (FHUGA) Zone District Regulations, and related map were presented to the Planning Board on August 21, 2018. During that public hearing residents had the following questions: how will the regulations be enforced; why are the enforcement provisions different between the FHCA and zone district regulations; will the regulations reduce property values; will we be able to operate our business as we have in the past; is this a land grab by Fort Harrison; and will these regulations affect the status of a road. Residents also stated: three regulatory documents are more confusing than one; properties are bisected by the proposed boundaries and regulations; the definition for home occupation is ambiguous; the proposed regulations are punishment to all area residents due to the complaints made by a few; roads within the proposed boundaries have degraded over time due to a lack of maintenance; and I am against any regulations and/or restrictions in this area. In addition, two testimonies in support of the proposal were received by attendees with one stating full support based on changes that were made to the documents since the start of the public hearing process in September of 2017. Following public comment the Planning Board made the following recommendations: approval of the draft FHCA Regulations with amendments to the map such that no properties are bisected by the boundaries of the FHCA; approval of the draft FHRGA Regulations with amendments to the map such that no properties are bisected by the boundaries of the FHRGA Zone District; and approval of the draft FHUGA Regulations with amendments to the map such that no properties are bisected by the boundaries of the FHUGA Zone District.

Ms. Morgan presented the updated map and explained how the proposed boundaries were derived. The Planning Board meeting staff discussed properties 50% in the proposed boundary would be included. Staff further discussed properties located south of Highway 12 to be included within the boundaries of the proposed districts. Based on discussions with Fort Harrison, staff recommends removing these properties from the boundaries. Discussion of property located east of Head Land to be removed, Fort Harrison indicates this area is located within a flight path for the Fort. Staff recommends this area remain within the proposed boundaries.

On August 29, 2018, staff posted five signs within the proposed FHRGA Zone District and five signs within the FHUGA Zone District legally noticing the Commission public hearing on October 18, 2018. In addition, staff mailed notice to all property owners of record within the proposed FHCA boundaries on August 30, 2018; published notice in the Independent Record on September 23 and 30, 2018; placed copies of the proposed regulations at the Clerk and Recorder's Office and the Community Development and Planning Department; and posted copies of the proposal on the County's website.

Ms. Morgan reviewed the three proposed regulations at length. The regulations would require a development permit for new construction.

Ms. Morgan noted staff has answered 130 questions and they are posted online. Since August 21, 2018, fourteen written comments have been received.

Commissioner Good Geise asked if the two zoning regulations have been clearly reviewed so there are no conflicts. It has been reviewed thoroughly.

#### PUBLIC COMMENT -

Peter J. Peterson, 4833 Birdseye Road, stated he has 22 acres in three parcels and is concerned his property is not under any covenant and was told with this new proposal he is unable to build a certain structure that would reflect light affecting the helicopters. He is opposed to any other new subdivisions as the road cannot handle more traffic.

Christel Harrison, 2976 Baxendale Drive, stated she lives at the bottom south edge of the boundary and she would like to request a variance that their property be excluded because it falls outside of the one mile recommended boundary.

Shane Whyte, 1104 Williams, 3413 Terrance and 1102 Spring, with an average of about 20 to 22 acre lots. He also works for Fort Harrison and there are things that Fort Harrison has not told the Commission. They said they have not increased their size in years but just recently closed a deal with an RV Park which increased their size. They also went from leasing to purchasing Limestone Hills from property owners. None of what is in the proposal solves the problems. Property owners cannot put in lighting to protect their homes. Fort Harrison uses Country Club and Williams Street to haul their tanks and the roads are in no shape for cars. Fort Harrison does provide jobs and they stated previously that they want to be good neighbors. He believes the rights of property owners and taxpayers are being taken away.

Gaylynn Wagner Flocchini, 7835 Highway 59 Gillette, WY stated she previously lived here. Her husband was the engineer that developed Broadwater Phase 1. She owns 80 acres above Phase 1 designed to be Broadwater Phase 2. She feels this proposal will severely limit her property rights. The property has water rights. The property has a design for 46 lots, and 27 multi-unit lots proposed for Broadwater Phase 2.

Owen Strom, 5000 Smallwood Court, stated he does not see a topographic map of the area. When he purchased the 40 acres that he owns he was told he would be able to subdivide and approved by the Commissioners at that time. If the government is really sincere about the safety why don't they pay fair market value to the property owners. He added if lighting is a concern make a requirement that all lights have to be pointed down.

Linda McClure, 4950 Buckskin Drive, located about 4 miles from Fort Harrison. She is totally against the regulations and will do whatever she can to stop it.

Walt Goodman, 3715 US Highway 12 W, stated they have 79 acres purchased for development and is concerned about the ability to develop. Now they are being told what they can and cannot do.

Donna Durckel, Executive Officer Helena Building Industry Association, acknowledged the work done thus far. The passions and the emotions run very high when it comes to property rights. She is here to offer the agency as a resource. They have 30 home builders that understand the regulations and 200 other members as a resource.

Shawn Williams, 3838 Barrett Road, stated he has concerns that the military has increased. He has been out there for almost 40 years. His concerns are the lighting issues; wells, who regulates how many wells they can put in; noise, dust, rotor wash from all the helicopters. He understands the noise, but he does not agree to have property rights taken away and for the Fort to continue to increase their size. He knows several people purchased land out there to develop and use for their retirement. He asked if the final regulations will be sent to the property owners.

Dave Wood, lives in the area and is concerned about what he has heard today involving property that has already been subdivided. Parcels can be subdivided into 10 acre parcels and that violates their law. Properties that have been sold in 20 acre parcels years ago can now only be subdivided into 10 acres. Mr. Wood also noted he did not receive anything in the mail.

Mr. Lane stated he has not prepared anything on regulatory takings, this is well within the statutory provided powers provided to the County by the Legislature. Generally a regulatory takings requires almost a complete reduction in property values under federal law. Reviewed before and does not feel this qualifies for a regulatory takings.

Ms. Morgan stated anything that is currently occurring on their property they would be grandfathered in to the regulations as long as it is lawful. If a property does not meet the minimum lot size requirement they can still develop it. She added 10 acre lots pertain to new land divisions or adjustments of land boundaries. Solar panels are allowed on people's properties as long as it does not create a solar array. The idea is a large block of panels could possibly cause a problem for the pilots. Ms. Morgan noted the well regulations are dealt with on the state level.

Commissioner Good Geise asked about the statements made that Fort Harrison is expanding. Ms. Morgan understands they have areas they have been leasing and have now purchased but the boundaries have not changed.

Peter Italiano, Community Development and Planning Director stated at the Planning Board it was stated the Fort has not expanded their previous boundaries.

Ms. Morgan stated notice was posted in the newspaper that ran twice in the legal ads and posted with a map. Five signs were posted in each of the zone districts notifying people of this meeting. In addition they made an attempt to notify every property owner within the boundary area by mail 45 days in advance of this meeting. Notice was also posted on the County website. Mr. Italiano stated about 600 mail notices were mailed.

A motion was made by Commissioner McCormick to continue the public hearing to November 15, 2018 to allow the Board of County Commissioners to fully consider all of the information and testimony. Commissioner McCormick further moved to direct staff to amend Exhibit E as follows: revise the FHCA, FHRGA Zone District and the FHUGA Zone District boundaries to exclude all lands south of the northerly right-of-way line of Highway 12; further to amend Exhibit E as follows: revise the FHCA, FHRGA Zone District and the FHUGA Zone District boundaries specific to Head Lane. The motion was seconded by Commissioner Good Geise. The motion Passed on a 3-0 vote.

Mr. Italiano asked for clarification of the motion to pull the boundary back towards Head Lane to use as the boundary or to continue to coordinate with the military planners to refine and bring back revised a map. Commissioner McCormick indicated that the motion is to include Head Lane.

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

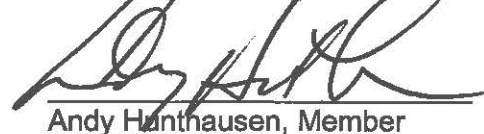
**Adjourn**

There being no further business, the meeting adjourned at 10:55 a.m.

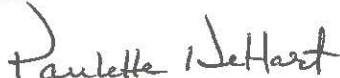
LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

  
Jim McCormick, Chair

  
Susan Good Geise, Vice Chair

  
Andy Hanthausen, Member

ATTEST:



Paulette DeHart, Clerk of the Board