



## **PUBLIC MEETING**

November 12, 2019  
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, November 12, 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, Lindsay Morgan, Peter Italiano, Nicho Hash, Christina Otto, David White, Sheila White, Harold Begger, Mark Ockey Jerry Richards, Robert Kauska, Gerald Hintz, Pamela Hintz, Mary Olson, Carol Andersen, Wayne Waters, Dan Dallas, Charles Olson, Marcia O'Dell, Brent Stoos, Kimberli Pipes, Jami Davis, Matthew Kowalczyk, Catherine Smith, Leonard Lombardi, Ruth Lombardi, Steve Wilson, Annmarie Robinson, Korri Galbraith, Patrick Gregg, Timy Pavey, Wendy Pavey, Archie Harper, Anthony Butler, Kathy Fehn, Ann Bramblatt, Ron Amedee, Nanette Harris, James Skinner, Ed Sherman, Bob Veroulis, Kristin Hanson, Raymond Read, Linda Read, Joshua Pierson, Michael Rhoades, Katherine Rhoades, Anjanette Brooks, Tom Hirst, Philip Engel, Joellen Moon, Kathy Olson, Eric Barsness, Don Pellam, Kim Smith, Ryan Hallows, Terry Zimmerman, Ralph Rex, Julie Rex, Les Bramblett, Cenn Bramblett, Nanette Harris, Jim Skinner, Randy Robinson, Carol Williams, Loretta Thomason, Travis Watson, Robert Clark, Norm Rostocki, Kevin Wright and Nadine McCarty, Recording Secretary.

### **Pledge of Allegiance**

Everyone recited the pledge.

### **Consent Action Items**

There were no consent action items.

### **Creation of Boundaries for Proposed Special Zone District No. 51 (Planner: Lindsay A. Morgan)**

Lindsay Morgan, Planner III, presented the request to create the boundaries for Special Zoning District Number 51. Landowners have petitioned the County Commission to create a landowner-initiated (Part I) Special Zone District. To initiate the process of creating a district, MCA 76-2-101 requires that 60% of all affected landowners petition to the Commission. The petition to create Special Zone District No. 51 was submitted on August 27, 2019 and approximately 63% of the affected landowners with the proposed district signed the petition. Ms. Morgan reviewed the three required steps related to Part 1 zoning: decision on creating the district boundary; Planning & Zoning Commission would adopt a neighborhood plan and development plan for the area; and the adoption of land use regulations. Each step does require review and decision by either the Planning and

Zoning Commission and/or County Commission with public input received and considered during each step.

The area is approximately 389 acres in size. The proposed District is located east of and adjacent to Green Meadow Drive, south of and adjacent to Forestvale Road. The south boundary is located on Mill Road just east of Green Meadow Drive intersection, drops further south to parallel Mill Road. It abuts and follows McHugh Drive heading north on the east boundary moving further to the east paralleling Kerr Drive, it extends further east going around properties that abut south and east sides of Lynn Road and connects back to Forestvale Road the north boundary.

The purposes of the proposed District are to accommodate and protect the use of low-density, single-family dwelling units and associated agricultural land uses; to promote groundwater protection and conservation; to minimize flood risk; and to preserve the rural residential character of the area, while enhancing the aesthetic character, property values, public health, safety, and welfare of the area.

The proposed boundaries of the District, as submitted by the petitioners, follow property boundaries in all areas with the exception of where the proposed District abuts a portion of the north boundary of existing Special Zone District No. 13-A. In this area, the boundaries of District 13-A already bisect three properties. If property lines are not followed for the proposed district, there will be properties located with both zone districts and the zoning will depend upon the on-site location. If property lines are followed for the proposed district, then there will be properties that are double-zoned in the area where the existing district and the proposed district will both be located. Staff recommends that the boundary of the proposed district follow the south property boundaries on the westernmost and easternmost lots as a majority of these lots will be located within the proposed district and only a small portion of these properties will be double-zoned. On the middle lot, staff recommends that the proposed district boundary be located on the north property line as this lot is mostly located in Special Zone District No. 13-A and only a small portion of this lot will remain un-zoned. This concept of double-zoning is consistent with other Part 1 and Part 2 zone districts in the Helena Valley.

Ms. Morgan explained in double-zoned areas the more stringent district would be followed. She also gave a brief explanation of the difference between Part 1 and Part 2 Zoning.

Should the Commission decide to create the boundaries for the District, a 30-day protest period would begin from the date of that decision. In order to protest, all landowners with an interest in property must sign the protest. When landowners own multiple properties and they properly protest, the protest will apply to all parcels owned by them. If landowners representing 50% of the titled property in the District protest the Commission vote to create the District within 30 days of that vote, the District would not be established. Upon creation of the District, the Commission must either create a Planning and Zoning Commission to administer zoning for the new District or appoint the existing Planning and Zoning Commission to manage these duties.

Ms. Morgan noted she received additional written comment prior to the meeting and presented the handouts.

#### PUBLIC COMMENT -

Kristina Otto, 1030 Mill Road, stated her property is on the fringe of the district. She is for the District and knows there is a proposed industrial type situation and she is opposed to that as it will affect all residents in the area. She added neither Mill Road nor McHugh Road are capable of handling heavy traffic and the weight.

Matthew Kowalczyk, 915 Forestvale, stated the water table is very high in the area and any sort of work would affect the wells and the quality of the water.

Mark Ockey, 5235 Dutchman Court and his in-laws are at 300 Mill Road, stated he is a water quality specialist by trade and is very concerned about the proposed gravel pit for the large area in the middle to be dug down 15 to 20 feet. He noted when flooding occurs it disperses into that property. He added if the gravel pit goes in they would be required to allow the water to flow onto the property as previously. According to consultants hired by proponent of the gravel pit it would take about a day to fill the property and the effect of removing the topsoil would speed up the infiltration. Along the north edge of that property, according to Montana Bureau of Mines & Geology Groundwater Information Center well logs show static water level runs 15 to 30 feet. Digging down 15 to 20 feet leaves only about a 10 foot buffer and any water in there will go into the wells that would include pollutants. He is very concerned about the water quality and property values.

Annamarie Robinson, President of the South Forestvale Home Owners Association, stated they are in support of the District in order to protect the neighborhood.

Harold Begger, stated his concern of property lines and how many feet people are allowed to build from said line if it is zoned.

Mary Olson, 630 Ronda Road, stated they have lived in the quiet residential area for the last 50 years with little or no fear of dust particles, noise, and safety of the residents. She added their basement is five feet underground and fills with water so wells would be affected.

Sheila White, 401 Forestvale Road, stated she has lived there since 2012 and is in support of the District as she has not had an asthma attack since relocating to the area.

Archie Harper, 901 Lynn Road, retired from the Helena National Forest as a watershed manager & stream biologist and serves on the Flood Committee, stated the citizens before him spoke well of his concerns. Mr. Harper read an excerpt from the ABZ's of Zoning and added the whole residential character would be upended if the project was allowed to be put in the middle of the residential area. There are also water quality and timing concerns being in an alluvial fan area. Many wells in the area are quite shallow and any disturbance of the area would expose the groundwater to contamination. This area is not compatible to the proposed project and he is in support of the District.

Kristin Hansen, lives at the corner of Stadler Road and Hedges Drive, stated she is in support of the District.

Korri Galbraith, 5420 Robin Drive, stated he was conflicted when he first signed on as he believes a person should be able to develop their personal property. However, he is in support of the District to protect the water quality and property values.

Norm Rostocki, 5210 Kerr Drive, stated last year there was a skirmish on Kerr Drive about digging a trench in the floodplain and it was determined by the floodplain coordinator that the nature of the land in the floodplain could not be changed. Mr. Rostocki stated several years ago they pumped water out of the basement from May to July due to the static water pressure. A 70 acre hole filled with water will take months to empty.

Anjanette Brooks, 645 Edgerton Road, stated her biggest concern is the safety of her children being able to ride their bikes as well as those that walk their dogs.

Ed Sherman, 664 Edgerton Road, stated he is in favor of the proposed District as it is a perfect area to raise a family. He understands the affect the proposed gravel pit will have on the health of the residents with the gravel dust as he suffers from silicosis as a result of gravel dust.

Robert Veroulis, 526 Stadler Road, stated he and his wife are in favor of the proposed District.

Travis Watson, 5220 Crescent Moon, stated this is a great spot for a park rather than a gravel pit. He added they purchased the lot 2 years ago and now the property value is trying to be reduced by the same person.

Robert Kauska, 5432 Sahara Court, stated there is a great deal of work being done along Forestvale down Montana through the Rossiter School area to divert flood water and most of the flood water goes over the middle of that north field. At a different public meeting Mr. Kauska was told if the property was developed the water would be directed down the Hilger Ditch. That ditch is too small to hold the water.

Kimberli Pipes-Sherman, 664 Edgerton Road, stated last week when the trucks and roller began the work for the roads it caused emotional damage to her and her son that both suffer from PTSD, as well as knocked things off the wall. She added that she was informed if the pit goes in the property values would decline.

Les Bramblett, stated a crusher would have to be brought in to process the rock being heard by the local residents for 8 to 9 hours a day/ 5 days a week for 20 years.

Loretta Thomason, lives on the corner of Edgerton Road and McHugh, stated according to Mr. Smith everything will be reclaimed in 20 years, but she is 77 years old. She added when she purchased her property the 70 acres was going to be part of a subdivision that never happened. She moved there for peace and quiet.

Tom Hirst, 5221 Crescent Moon Drive, stated they purchased the home about 3 years ago thinking it would be their last residence. Mr. Hirst agrees with all the previous reasons that were stated and added he is in favor of the District.

Kim Smith, 7510 Applegate Drive, stated he feels zoning is to guide development. He added some of the areas included in the boundaries of the proposed District are odd and those not included even more so. Mr. Smith stated the property that goes from Forestvale to Green Meadow, to McHugh and all the way to Ten Mile Creek should be included as it is very similar with floods and has development challenges. It seems the boundaries have been selectively picked to zone out the gravel pit. He added there is plenty of opportunity to work with people on the plan operation. He added 90 percent of the concerns do not exist with his plan operation. The proposal was to crush no more than 30 days during a 3 month window. The product to be produced would not produce any dust. Trucking is a concern for everyone. He stated the drivers are safe trained and drive 5 miles below the speed limit. Mr. Smith explained the reason he is trying to approve the location is due to the high quality aggregate that exists. It is not a high production site, no hauling in and no permanent retail operation of any kind. He added looking at the big picture a gravel pit in this location makes sense economically and environmentally. Mr. Smith stated there is a possibility this property could be beneficial in flood mitigation. He added they have pump tested and monitored wells. Mr. Smith stated they will not work in the floodplain, nor will there being any water running into the gravel pit. Mr. Smith would be happy to discuss the operation plan with concerned residents and believes it would mitigate most of the concerns.

Mr. Smith stated DEQ, Open Cut Division regulates gravel pits. It can be changed through a public process. He added the plan of operation is created by the operator and submitted to DEQ with a substantial bond that guarantees if there is ever a cleanup issue or if the property is not properly reclaimed.

Ms. Morgan explained the permitting process and the responsibilities of the county and state noting if the area is not zoned the individual would contact the state. A floodplain development permit would be required from the County if the proposal is to locate the gravel pit within the 100 year floodplain and if outside the sole jurisdiction would be the state.

Sheila White, 401 Forestvale Road, asked if this gentleman lives in the area and will he be affected.

Archie Harper stated the southern boundary being Ten Mile Creek was considered and it was found the areas were zoned under agricultural. They excluded the area particularly the area southwest of the Helena Valley Irrigation Ditch with exception of the area to the southwest as that property owner requested the exclusion due to his mixed feelings about zoning. He briefly discussed his experience in working with mining projects and flood mitigation noting that flood mitigation does not eliminate the risk it means a reduction to some degree. Mr. Harper noted this would be good open space.

Mr. Smith noted if someone came forth with a plan for open space or parks he would be more than happy to entertain it.

Charles Olson, 645 Sewell Road, stated if his 5 foot deep basement floods due to the water table, the 20 foot pit would have 15 feet of water and would be contaminated. He added it has been said that if the layer of volcanic ash from the Yellowstone eruption years ago is ever penetrated the aquifer of the valley would be at risk. It seems an EPA study should be done before a pit is considered.

Ryan Hallows, 5201 Crescent Moon Drive, stated he is in favor of the District and noted that Mr. Smith manages their community well. He sees a possible conflict of interest if the pit goes through because of the well location being adjacent to the property.

Joellyn Moon, 5183 Kerr Drive, stated she is concerned that when a violation occurs it would become a financial burden to the residents to ensure the enforcement. She is in favor of the District.

Ed Sherman, 664 Edgerton Road, asked for an explanation of super fund and if the gravel pit goes forward will the property taxes increase by a super fund to rectify what is left.

Loretta Thomason, asked for the Commission to drive by the other mining site on McHugh to see the mess.

Anthony Butler, 650 Ronda Road, stated the core issue is everyone wants to live in peace and quiet. He asked if the District passed would it supersede the pit application and solve the problem. Mr. Butler wants to know if there is anything else the residents can do to help pass the District and get rid of the gravel pit. He wishes there was an overall detailed county plan to make sure this kind of thing no longer happens.

Joshua Pierson, 781 and 791 Rainer Road, stated he rides a motorbike and the road in front of the other gravel pits has a trail of mud about 1/2 to 1 block long as well as good sized rocks. He would like to know if any maintenance will occur to the road in front of the gravel pit. His other concern is his son walks to the bus stop from Rainier Road to Mill Road twice a day. He added if flood water is diverted from the area it will go to the surrounding homes. The thought of messing with the aquifer is disturbing.

Ms. Morgan reviewed the three step process again and stated the Commission will likely set another meeting date. Once a decision is made on the proposed boundaries the 30-day protest period will begin. It will be advertised in the newspaper with a notice sent to every property owner within the District. Ms. Morgan added the questions asked today could be answered, posted on the website with hardcopies available at the next meeting.

Commissioner Hunthausen stated the purpose of this meeting is to discuss the petition for the District and if it meets all requirements.

Mr. Italiano stated in accordance with MCA the petition meets all the points. He added Planning is currently looking at Part 2 Zoning over the entire valley. The focus is simply to make a decision on the boundaries.

Nicho Hash, Deputy County Attorney, echoed the three step process and added a legal analysis would occur for every step of the process.

Terry Zimmerman, 357 Mill Road, stated he owns the properties that lie outside of the proposed District and stated he definitely does not want his properties within the District.

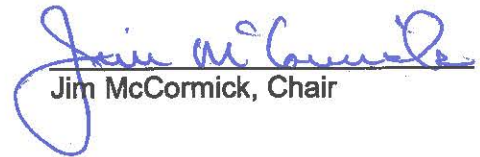
A motion was made by Commissioner Hunthausen to take public comment and the staff report under advisement and continue the issue on November 21, 2019. The motion was seconded by Commissioner Good Geise. The motion Passed on a 3-0 vote.

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

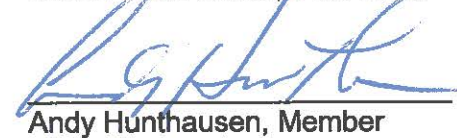
**Adjourn**

There being no further business, the meeting adjourned at 11:19 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