



PUBLIC MEETING

November 15, 2018
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, November 15, 2018, at 9:00 AM in Commission Chambers Room 330.

Roll Call

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

Commissioner Jim McCormick and Commissioner Susan Good Geise were present. Others attending all or a portion of the meeting included Roger Baltz, Marni Bentley, Peter Italiano, Lindsay Morgan, Audra Zacherl, Laura Erikson, Jim Strachan, Gaylynn Flocchini, Joel Itby, Candace West, Val Jaffe, Shane Whyte, Joyce Evans, Dan Danielsen, Georgana Webster, William West, Dave Lewis, Dean Retz, Sandy Copenhaver, Dan Simonton, Mike Woodel, Judy Windle, Alan Windle, Dave Wood, Bob Robinson, Shaun Williams, Kaye Poston, Paulette Hutcheon, Steven Bates and Nadine McCarty, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

- a. Vendor Claims Report for Week Ending November 16, 2018. (Marni Bentley)

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

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.

Resolution 2018-99 Intent to Establish the Lewis and Clark County Landfill Fee Rates Beginning January 1, 2019. (Audra Zacherl)

Audra Zacherl, Public Works Assistant Director, presented the resolution of intent to change the landfill fees. On October 2, 2018 the Scratch Gravel Solid Waste District Board voted to approve several changes to Landfill fees to include: a proposed decrease of \$2.00 in the Class II, Municipal Solid Waste tipping fee, from \$28 to \$26; to establish a minimum fee of \$5.75 for bringing 1 to 500 pounds of Class IV Construction & Demolition Waste with anything over 500 pounds remaining subject to \$23 per ton fee prorated depending on actual weight. The intent is to encourage larger and more efficient loads. The final change is to allow Class IV Construction & Demolition rates to be adjusted by management based on an operational assessment to include waste volumes, contract terms and fiscal impacts.

The resolution of intention will be advertised in the Helena Independent Record the next two Sundays and public comments will be accepted until 4:00 p.m. on Wednesday, November 28, 2018 at the Lewis and Clark County Clerk and Recorder's Office. Staff recommends approval of the resolution of intention.

Commissioner Good Geise asked if the change will be brought before the Commission or will it be an administrative change. Ms. Zacherl noted it will be made on the administrative level.

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.

Proposed Expansion of Boundaries for Special Zone District No. 49. (Tabled 11-8-18) (Planner: Lindsay A. Morgan)

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

Lindsay Morgan, Planner III, presented the request to expand the boundaries of landowner-initiated Special Zone District No. 49, also referred to as Valley View Heights Planning and Zoning District.

Since the closing of public comment on the November 8, 2018 meeting additional written comments has been received and Ms. Morgan presented the comments to the Commission. Ms. Morgan noted one of the comments received is a request to be taken off of the petition.

Commissioner Hunthausen stated the Commission will need time to review the additional comments received. Commissioner Hunthausen asked that those that commented last time keep the comment to something new.

PUBLIC COMMENT -

Dan Danielsen, 2290 Snowdrift Road, stated he presented a letter to have his property removed from the petition. Mr. Danielsen moved to Montana to get away from being controlled and told what he could do with his property.

Georgana Webster, 5877 Collins Road, stated she supports the zoning extension. Conservation wise it would not be in the best interest. Historically they have been told water north of the canal is close to non-existent. Traffic is another concern with the proposed density.

Steve Utick, 2950 Fantasy Road, stated he has additional comments for the Commission that he received. There was someone on a rant last week and spoke some misunderstandings. There has been talk that much of this is personal and the presented comments recognized that.

A motion was made by Commissioner Good Geise to table the item to November 27, 2018 and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

Draft Fort Harrison Compatibility Area Regulations, Fort Harrison Rural Growth Area Zone District Regulations and Fort Harrison Urban Growth Area Zone District Regulations and Maps. (Tabled 10-18-18) (Planner: Lindsay A. Morgan)

Commissioner Hunthausen stated that Commissioner McCormick had to leave the meeting.

Commissioner Good Geise stated because the attorneys are not in attendance, the absence of Commissioner McCormick and the importance of this issue to not make a decision today and will move to table the item until November 27, 2018.

Lindsay Morgan, Planner III, stated today additional comment will be considered regarding the proposed Military Affected Area, Fort Harrison Rural Growth Area Zone District, and Fort Harrison Urban Growth Area Zone District. The purpose is to promote compatible development around and adjacent to Fort Harrison consistent with the policy recommendations that are laid out in the Lewis and Clark County Growth Policy update 2015.

Ms. Morgan addressed the Commission questions of staff regarding how many military affected areas are in the United States. Department of Defense does not have record of how many MAAs there are in the United States. She did find three examples: Vance Air Force Base in Enid, OK; Naval Air Station Whiting Field located in Santa Rosa County, FL; and Malmstrom Air Force Base located in Cascade County, MT. Ms. Morgan gave a review of each.

The draft sets of regulations and updated map are located on the Lewis and Clark County website main page under the title of What's New. Ms. Morgan provided 30 copies of questions that have been addressed since September of 2017, approximately 130 questions.

Ms. Morgan noted there have been at least 7 public meetings each from 1 to 3 hours of public comment received.

Commissioner Good Geise asked if the MAA and the zoning must be tied and what would the affect be of passing one and not the other. And Ms. Morgan stated the two are not tied together, staff would recommend to have separation adoptions for both. Ms. Morgan added the regulations are stand alone. She noted if the MAA was adopted properties would have limitation on uses prohibited. For future there would be restrictions on lighting and height restrictions. If only the zoning is adopted there would be a minimum lot size requirement and one use for the property. Both sets of regulations have statutes that apply to each regulation.

PUBLIC COMMENT -

Gaylynn Flocchini 7835 Hwy 59 Gillette, WY stated her attorneys submitted an email as well. She has two different areas of property in this proposed zoning. Most of them fall outside the one-mile military zone. Her other property is 80-acres above the Broadwater Subdivision, Phase 1. The local government is using its authority and power to do what the military should be paying for. Taking our value and giving it away using land use authority to benefit one landowner - the Fort. This is spot zoning and it is illegal. The Fort is expanding while pretending not to. Regardless whether this is legal or not this is causing substantial harm to many landowners. Ms. Flocchini asked that this not be done to her property and others in the area.

Shawn Williams, 3838 Barrett Road, stated he surveyed around the area for about 3 hours. Mr. Williams asked the Commission to look up inverse condemnation as it has to do with the 5th Amendment rights. Mr. Williams is concerned with helicopter rotors and the speed of sound and concerned about fractures in the wells. What are the land swaps about and would like an overlay of 2016 versus the current date as they have heard the BLM land in the back has been swapped for other use.

Candace West, 805 Franklin Mine Road, stated she is currently in the Special Zoning District No. 45. They are currently zoned for density and are individual residential 10 acre parcels. The overlay of the additional zoning does nothing to benefit the county or the Fort in terms of density uses and other functions. The only additional layer on their particular parcels is regulating lighting and towers. Their parcel is at the north edge surrounded by 180 acres that belongs to the Army Corps of Engineers. There were military preparedness activities on that parcel done on a regular basis. Conflicts are not coming from the private parcels but from the military. The military conducted a land exchange to correct conflicts.

William West, 805 Franklin Mine Road, stated he is a former military pilot and noted the FAA regulates air navigation. The County cannot regulate what they do on the ground or in the air as it is

already regulated by the FAA. The military pilots will not be helped by zoning property on the ground. The pilots are required to avoid obstacles, including the hill behind their house that is not lighted. The FAA's rules have been set for years. Mr. West does not see the necessity of the zoning. The MAA may have sounded like a good idea, but it sounds like a bad idea and unnecessary.

Commissioner Good Geise asked Mr. West due to the property currently being zoned that the only material changes that will occur would focus on lighting and towers and Mr. West stated he understands that the restrictions dovetail except for lighting and zoning.

Joel Irby, 5196 Stallion Ridge Drive, stated from the day the expansion was proposed the public has stood in solidarity against it. They have been told they need to work with the Fort, the Fort needs to work with us. They are told the agenda is being tailored to the public comments. He asked what exact dollar amount are their rights worth, what exact dollar amount makes the commission turn a blind eye on the people. Please represent the people.

Dan Simonton, 2901 Baxendale Drive, stated his property is outside of the one mile buffer and requested to be removed from the zoning area. He would like to see the commission utilize the precision on applying the boundaries to the one-mile buffer. If the base should close there should be provisions to not have the Fort Harrison overlay. He does not see a need and finds the Joint Land Use Study to be complete.

Shane Whyte, 1104 Williams and 3413 Terrance, stated about one month ago the military bought the Limestone Hills that is used as a test facility. Canyon runs have been affecting the ranchers for about 25 years. One property owner had a run-in with the military as they were flying under the FAA standards above his house. Malmstrom does not have these issues. This has come down to Fort Harrison versus the public and the Commission are the public representatives. Fort Harrison has a long standing presence in the community that started out as a hospital then moved to a military facility.

Judy Wendel, 3802 Barrett Road, stated she is very averse to the zoning. She hears it is not going to affect property values but it does. The Fort is a better neighbor than they were 40 years ago so why all of sudden is another layer of zoning required. Those that complain will not stop complaining.

Ms. Morgan stated in the area zoned off of Head Lane there are four special zoning districts that lie within the proposed MAA boundary with minimum 10 acre lot sizes and use restrictions. Currently there is proposed special zoning district No. 7 that has use restrictions but the minimum lot size is .5 to 1 acre in size. She added the lighting and height restrictions fall under the MAA overlay district and not part of the zoning.

Mr. West stated they have not attended all of the meetings, but asked if the Fort has ever shown up to advocate for this military affected area.

Commissioner Hunthausen stated the Joint Land Use study was entered into by both parties and he noted recommendations from the study is fully supported by all parties. The Fort has been supportive.

Ms. Morgan stated Fort Harrison has been present at all meetings with the exception of the last two meetings. Ms. Morgan asked the Fort additional questions brought up by public comment which has been added to staff responses available at the front of the room.

Commissioner Good Geise stated the Fort had a robust presence at the first meetings, and has continued to work with them since this got started in a very robust way.

Ms. Morgan discussed the properties located beyond the one-mile boundary and noted if more than half of the property line is within the district the entire property is included, if less than half the property is not included.


Commissioner Hunthausen stated this is a listening session and will try to have answers. A motion was made by Commissioner Good Geise to table the item to Tuesday, November 27, 2018 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

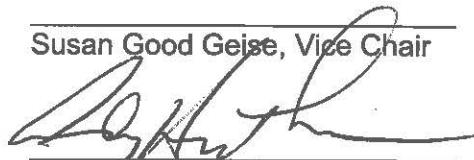
There being no further business, the meeting adjourned at 10:42 am.

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