



PUBLIC MEETING
November 17, 2015
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, November 17, 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 and Commissioner Mike Murray were present. Others attending all or a portion of the meeting included Eric Bryson, Michele Peterson-Cook, Lindsay Morgan, Kevin Hamilton, Misty Edwards, Patrick Tramelle, Paulette DeHart, Kim Smith, Al Knauber, Audra Zacherl, Judy Larson, Melinda Herron, Pam Mann, Carol Holly, and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

National Hospice and Palliative Care Month Proclamation.

Patrick Tramelle, Community Liaison Rocky Mountain Hospice, read the proclamation declaring November 2015 as National Hospice and Palliative Care Month.

Consent Action Items

- a. Resolution 2015-157 Declaring County Property Surplus Property. (Amy Reeves)
- b. Rubicon Settlement Agreement. (Eric Bryson)

Eric Bryson reported on the consent action items 3a-b and recommended approval.

No public comment was received.

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

**Contract # 16-51-041 Between Lewis and Clark County and Montana Department of Commerce.
(Misty Edwards)**

Misty Edwards, Administrative Assistant, presented the contract between Lewis and Clark County and the Montana Department of Commerce in the amount of \$66,000 to provide funding for the Hooper Park restroom and shower installation project. The total project cost is \$99,000 with a local match of \$33,000 which has been budgeted in the current fiscal year.

No public comment was received.

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

Contract Between Lewis and Clark County and Robinett Construction, Inc. (Audra Zacherl)

Audra Zacherl, Finance Coordinator, presented the contract between Lewis and Clark County and Robinett Construction in an amount not to exceed \$47,520.00 for improvements to Big Valley-Cabin Road Rural Improvement District. Work will include preparing the road surface for gravel, hauling and placement of a base course and top finishing course to meet County standards, installing new culverts and one culvert extension. Budget for this work is \$59,420.52 to be funded by a debt service assessment of \$242.53 per parcel in the RID per year for a period of seven years. Work will be completed by the end of this week.

No public comment was received.

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

Memorandum of Agreement Between Lewis and Clark County and Montana Department of Transportation. (Audra Zacherl)

Audra Zacherl, Finance Director, presented the grant award for the purchase of a new mechanical sweeper in the amount of \$240,909.01 with a County match of \$32,329.99. The grant award is from the Montana Air and Congestion Initiative (MACI) program which has awarded the County nine different pieces of equipment from this grant program since 2000.

No public comment was received.

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

Off-Site Fire Protection Source Request - Lincoln Heights Subdivision. (Applicant: Kim Smith Properties, L.L.C.) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented the request to utilize the fire protection system located in the Grand Valley Estates Subdivision as the source that will serve the Lincoln Heights Subdivision in order to meet fire protection requirements. The subdivision was granted preliminary approval on April 5, 2011 and final approval on December 20, 2012 subject to an Subdivision Improvements Agreement (SIA). According to the conditions of final approval, the applicant was given the option of providing either an on-site or an off-site fire protection source. At final approval, the applicant provided a guarantee for an on-site 30,000 gallon, buried water tank to meet fire protection requirements however, no specific plans were submitted regarding the location of the system. Since the conditions of final approval allowed for either an on-site or off-site system in order to meet fire protection requirements, the applicant is now seeking to use the existing, off-site system located in the Grand Valley Estates Subdivision to meet this requirement. The source is located approximately 2.3 road miles from the Lincoln Heights Subdivision. This subdivision was reviewed and approved under the 2010 Subdivision Regulations. The proposed system is located within the Grand Valley Estates Subdivision and was implemented by the applicant and is located within a public access, utility and fire protection easement and currently provides fire protection for the Grand Valley Estates Subdivision, the Timberworks Estates Subdivision and the Amended Plat of Lot A - Guetler Subdivision No. 2. This fire protection system is not maintained under an RID, as required by the regulations and is currently being maintained by the applicant. According to the certification letter, the system is to provide service for the listed subdivisions in addition to providing service for future area subdivisions in the surrounding area. A letter dated May 4, 2014 stated the system was flow-tested by the West Helena Valley Fire Department at over 1000 g.p. at 20 p.s.i. The letter further stated with a 119,000 gallon tank and well to re-fill it, there is more than the 120,000 gallons of water required for this system. Based on the Subdivision Regulations, the additional four lots within the Lincoln Heights Subdivision will not require any upgrades or expansion of the fire protection system. If the Commission approves the location of this system as being the fire protection source for the Lincoln Heights Subdivision the applicant can pursue the documentation required under the 2010 County Subdivision Regulations.

Commissioner Geise asked Ms. Morgan if we have received comments from the Fire Departments in regards to the request.

Lindsay Morgan stated West Helena Valley Fire Department has concerns about the distance of the fire protection source.

Commissioner Geise asked for clarification on the fire protection source not being maintained by an RID.

Lindsay Morgan stated that the Guettler Subdivision does not have requirements that the fire protection source be maintained by an RID however Timberworks Subdivision has requirements that the fire protection source must be maintained by an RID as required by regulations.

Commissioner Geise asked for clarification about the six aspects required by regulations.

Lindsay Morgan stated that requirement Number One and Two were not done when the subdivision application was submitted as the application stated it would do one or the other to meet the fire source requirement, it was noted that a guarantee was submitted during final approval. Item Number Three is before you today and Number Four and Six has been taken care of while Number five is pending resolution.

Commissioner Murray asked about the letter of credit being issued by Mountain West Bank being closed and if the new entity assumed all letters of credit.

Lindsay Morgan stated that new entity did assume all the letters of credit however in this case, the completion date expired in November 2014 therefore the applicant is considered to be in default with the agreement.

Commissioner Hunthausen asked about the fire protection system in Timberworks and who may be responsible to maintain it, if there is public access and why the RID was not formed.

Eric Bryson stated the issue with the creation on an RID was not applicable with Timberworks Subdivision as the fire system is not a public system and you cannot form an RID to pay for something that is privately owned.

Kim Smith, applicant, stated the fire improvements were bonded upon final approval of the subdivision. He noted the system is on public property and is efficient to provide fire protection to the four lots located in this subdivision. He noted he does not feel he maintains the system as the WVFD does service the system and further noted he is financially responsible for the operating it. He stated this has been an oversight and was not aware of the default in the agreement.

Commissioner Murray asked Mr. Smith if maintenance involves only paying the power bill.

Kim Smith stated that is correct.

Commissioner Hunthausen asked Mr. Smith why the system was not turned over to the public in order to form an RID and if he was charging for maintenance of the system.

Kim Smith stated he is not charging and did not feel the system was in his name.

Eric Bryson stated that Mr. Smith has the system in his name and he controls the use of it.

Commissioner Hunthausen expressed concern for the distance of the fire protection source from the subdivision.

Kim Smith stated the distance does not change the response time in his opinion.

Jerry Shepard, Fire Chief of West Valley Fire Department, stated he has concerns with the distance as it would set precedence. WVFD put a 33,000 gallon fire source in at Silver Creek road that is just over 1.7 miles away from the proposed subdivision as a closer option for the applicant. He further noted that WVFD checks the water in the hydrants but does not check the well itself. If it becomes their well they will maintain it and would be open to taking ownership of that fire protection source.

Commissioner Geise discussed the response times at different times of the day due to the high volume that occurs on Lincoln Road. She asked if the Commission is to make a decision under the 2010 Subdivision Regulations.

Lindsay Morgan stated the Commission is bound by determining if the fire protection source is adequate but not necessarily bound by the current subdivision regulations.

Michele Peterson-Cook, Deputy County Attorney, stated legal would agree with concerns about setting precedence as you are not bound by the one mile rule in the current Subdivision Regulations. She further stated that the Commission is bound by determining what adequate fire protection is.

Kim Smith stated in his opinion this would not set precedence.

Commissioner Geise asked staff to look into whether or not there is a routine maintenance schedule that is recommended as her concern is that the system is not being maintained today.

Commissioner Hunthausen asked staff to look into the current regulation of one mile and what can be done to develop a policy that allows the development community a standard within that regulation.

Kevin Hamilton, Deputy Planning Director, stated the current regulation that reads the distance specifically as one County mile.

A motion was made by Commissioner Geise to table the item until the regularly scheduled meeting on November 24, 2015 and seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

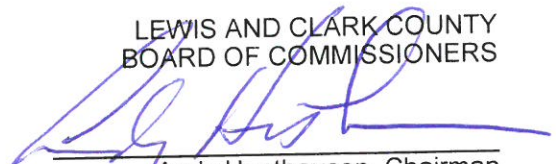
Public comment on any public matter within the jurisdiction of the Commission that is not on the agenda above.

Kim Smith, stated the subdivision regulations are clear but is the one mile an arbitrary number or a proper number and supports looking into a clearer direction to the one mile regulation.

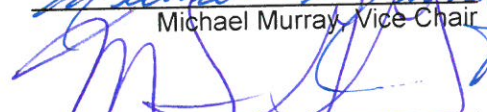
Adjourn

There being no further business, the meeting adjourned at 10:05 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