



PUBLIC MEETING

November 19, 2020
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, November 19, 2020, at 9:00 AM in Great Northern Best Western Conference Center, Zoom
<https://zoom.us/j/5669454978>

Roll Call

Chair Susan Good Geise called the meeting to order at 9 a.m.

Commissioner Andy Hunthausen and Commissioner Jim McCormick were present. Others attending all or a portion of the meeting included Roger Baltz, Nicho Hash, Peter Italiano, Greg McNally, Karin Rutherford, Tom Rolfe, Steve Utick, Tim Dosenberry, John Herrin, Jonathan Amberie, Conner Dedrick, and Nadine McCarty, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

There were no consent action items.

Resolution 2020-97 to Create Both Zoning Districts and Regulations for the Helena Valley Planning Area. (Peter Italiano and Greg McNally)

Greg McNally, Planner III, presented the resolution to create Part-2 Zoning in the Helena Valley Planning Area. On October 6, 2020, the Board of County Commissioners voted to adopt a resolution of Intention to create Part-2 Zone District boundaries and regulations of the Helena Valley Planning Area (HVPA), as identified in the 2015 Growth Policy update.

Three letters of protest were received during the open public comment period. Two of the three letters met the standard as protests, as one was for land inside the city limits of Helena. The statutorily mandated thresholds were not met. The threshold of 40% of real property owners and the threshold of 50% of property owners whose property is taxed as agricultural, or forestry lands were not met. Due to this, the Commission may approve to adopt the resolution. Staff recommends approval.

Commissioner McCormick asked about the public comment from the October 6, 2020 meeting.

Peter Italiano, Community Development & Planning Director, gave an overview of the last meeting on October 6, 2020. Prior to that meeting many meetings and listening sessions were held.

Nicho Hash, Deputy County Attorney, stated the statutory process is now to adopt the resolution to create the Zoning Districts and Regulations.

No public comment was received.

Commissioner Hunthausen stated that zoning is one piece of the puzzle for planning for growth in the Helena Valley. The next agenda item would not exist if it was not for the input of the community.

Commissioner McCormick added what is being done today is the culmination of this issue and others since 1984. Desirability of living in the Helena Valley has been more than what most folks expected. Folks from all over the country desire to live here. There comes a responsibility of planning. Commissions before have addressed it, and it has been this Commission to pull it together. A basic zoning format that is not onerous in many opinions of the community. Many folks support zoning, with differences of opinion on how that should move forward.

Commissioner Good Geise stated we know people are coming to the Helena Valley and we need to prepare for that as well as respect those that have lived in the valley for a long time.

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

Resolution 2020-98 to Create the Helena Valley Planning Area Blue Ribbon Panel on Zoning for the Helena Valley Planning Area. (Peter Italiano and Greg McNally)

Peter Italiano, Community Development and Planning Director, stated on October 6, 2020, the Commission gave direction to staff to return with a recommendation regarding the creation of a group to investigate certain aspects of Helena Valley Planning Area (HVPA) zoning. A common approach is to form a "Blue-Ribbon Panel" with a broad community cross-section with specific interests. The purpose of the panel is to assist staff in crafting regulations for the Urban and Suburban Residential Mixed-Use District and would be tasked with seeking options and alternative approaches to ameliorate concerns noted about the Rural Residential Mixed-Use District 10-acre minimum lot size. The panel needs to have a name. Planning staff listed a few names with a recommendation of Zoning Advisory Panel. A group of 12 voting participants could remain efficiently manageable and could afford a representative cross-section of interests specific to the HVPA zoning. In addition, Community Development and Planning would seat 4 non-voting adhoc members and a non-voting moderator to assist the group staying on point and focused.

The operation duration of the panel should be approximately 12 months. This would allow staff between 4 to 5 months to pull together the necessary information, public notices, staff report. The recommended 12 members are: a realtor, from the building fire representatives; a member from the Valley Flood Control Committee; affordable housing representative; a member with banking and finance background; a member with a background of land trusts, from an open land perspective; 3 citizens from the Helena Valley; a county side appointee from the Planning Board. Staff recommends approval.

Commissioner Hunthausen stated when the decision was made to have staff work on creating a panel and there was not much direction besides what the panel should work on. The way of selecting the members is well pointed out in this plan. This is the Commission's panel, and the final decision would be made by the Commission. He asked is the intent to give the panel any resources necessary to answer questions such as planning, and legal counsel. He added he knows there was a proposal of providing a secretary for support of minutes, etc. Mr. Italiano stated they anticipate civil attorneys being available. There is the commitment of \$100,000 from the Commission to assist the panel where necessary. The process to get the committee formed would be the normal volunteer board application process. They recommend process be closed on December 14, 2020, with meetings beginning January

2022. The recommendation is that all operations of the panel would be by two-thirds of the panel. Staff drafted bylaws that can be modified if chosen to do so.

Commissioner McCormick asked outreach to associations, constituencies for applications, does Planning have a process for that? Mr. Italiano stated there is not process per say, but the highest priority is reaching out to let the public know what happened with the decision today and is sure people will be interested in the panel.

Commissioner McCormick stated the compensation of the recommended panel was not prescribed, it was put together from each individual County Commissioner with questions referred to them by County Planning. The underpinning of all of this is primarily from public comment. They heard from associations and individuals. He suggested the resolution be amended to strike "Blue Ribbon Panel" and insert the "Helena Valley Zoning Advisory Panel".

Commissioner Good Geise suggested, assuming this is approved today, and the members are identified, to get the bylaws out to them in advance of the first meeting of the panel so that they can come prepared to get started right away and prepare to move forward. The commitment organization and finances should go long after the one-year period lapses. This group should be a standing group because zoning always changes and having a consistent buy-in will benefit everyone. The importance of the correct moderator is crucial. It needs to be a strong person that can find ways for members to have common ground. Every member of the panel is going to come with their very own, specific, self-interest and point of view. The duty of the panel is to propose suggestions that benefits everyone.

PUBLIC COMMENT -

Tom Rolfe stated he sees a problem with two-thirds to move issues forward and the even number of members. He says a majority should be needed to move issues forward and having an even number of members leaves the possibility of having a 50/50 split.

Steve Utick, 2950 Fantasy Road, he agrees with Mr. Rolfe and states the two-thirds majority as there are going to be many things that will be contentious. He also agrees on the even numbers and noted the way to solve it may be to add another member from Part-1 zoning area to match the 2 members from Part-2. He feels that having 2 members from Part-2 and having only 1 representative for Part-1 is stacking the deck and giving more of a voice to Part-2 representatives.

John Herrin, 2855 Sundown Road, stated he wishes this would have been done before the rural area. He hopes they will consider people that are maybe contrary to the thinking. You do not want a bunch of people that all think the same. He would recommend that Andrew Thomas be considered. He agrees with the timeline. He would advocate the County would conduct a social economic study. In addition, an impact assessment on the existing zoning regulations and any new ones. The County needs to look at the social/economic impact and use the \$100,000 to do a social/economic assessment. What is the plan for updating the growth policy? It has been five years since the last update of that policy, and he believes that needs to be done before zoning gets approved. He thinks some type of public survey be done. The growth in the community is important to consider and looking forward we need to have solutions that meet the needs and are scientifically, fact-based. He understands there is supposedly a new plan coming out regarding fire protection. If that is coming out soon, the rural zoning should wait until that fire protection plan is out. The County needs to be more proactive and detailed to give the public an idea of what is coming up in plans for the upcoming year.

Abigail St. Laurence, on behalf of the Helena Building Industry Association (HBIA), stated HBIA appreciates the work that has gone into drafting this proposal and are already looking at their folks to participate in the panel. She agreed that the commitment of resources to assist the panel is so important. The ability to focus on all options to see what is feasible is also important.

She discussed the proposed bylaws article 3 section 2, the purpose and mission of the panel, does not fit with the definition of a blue-ribbon panel, as a blue-ribbon panel is investigatory and independent body. If the panel is just there is to put a rubber stamp on what the staff is already putting forward, it doesn't maximize the talent of the panel and doesn't show community buy in. The same language in

Article III, Section 3b should be stricken in its entirety or should be significantly expanded. HBIA took it that this is not a one and done. Article V Section 1C suggested adhoc non-voting members should not be limited and be brought in at the request of the panel.

Under Section 1D stated that the moderator remains non-voting and that they do not have a predetermined outcome. The moderator does need to be experienced in facilitating conversation but not their job to guide to a specific outcome.

Article V Section 2 on the terms of the membership she thinks once a panel member is appointed, they need to be appointed, period. The board needs to be able to operate as an independent investigatory body. They should not be added or removed at the will of the Board. She would suggest 2 year set term.

Section 3, the duration of the panel, should at least last until May 30, 2022, until zoning regulations are fully implemented.

Article VI, regarding the 2/3 majority of the quorum, she has a hard time justifying that because every other part of the development is by simple majority. That communicates a higher standard, and the panel is not making the final decision. The recommendations should still be coming out because they are recommendations only.

Article VII Section 1E (4), the agenda being solely staff driven, she feels the panel should be the ones setting the agenda and although staff has expertise, the panel knows what their job is and to set their own agenda will allow them to determine how they are going to do that job. There is a lack of clarity in the language about 2/3 majority for speaking before the panel and can be read that even if the panel member wants to speak a second time, should have permission. The County has taken great pains to solicit input and it shouldn't be limited here.

Article VII Section 1K (I), on the subcommittees, language should be cleared to state work sessions are to be used for work and discussion only and not official action.

Article 7, Section 3(c), to recommend policies, is appropriate but still needs to be driven by the panel itself with independence so there is a very sound basis for Commission decisions.

Mr. Herrin stated this board should have a mandate that there is some form of public outreach and listening sessions with a progress report and key points. The growth policy needs to be updated and integrated into this whole thing. It also will give something to work with. He would recommend independent consultants help with the update. He guesses the \$100,000 would be exceeded if this was done. Unless there is a separate plan regarding the updated growth policy, the ideas for an updated growth policy should be incorporated into this and be presented today.

Commissioner McCormick stated he would like to withdraw his suggestion about changing language in the resolution to "strike "Blue Ribbon Panel" and insert "Helena Valley Zoning Advisory Panel"".

A motion was made by Commissioner McCormick to adopt the resolution to create the Helena

Valley Zoning Advisory Panel.

Commissioner McCormick stated at the beginning of this he was struggling with the 10-acre minimum. He feels better having the panel in place and satisfies his concerns about that minimum. He thanked everyone and certainly the public participation and is confident there will be a positive outcome.

Commissioner Hunthausen discussed the bylaws brought up by the public that included: Article 3 Section 2a & b he doesn't see any problem in changing the language as the intent is to give the panel investigative authority and independence. However, he gets what staff is trying to do. He doesn't think it is significant to change the number of panel members. In terms of the duration of the panel, if they wanted to change the language to have a standing panel the terms of service could be addressed. There is independence, but this is the Commission's panel.

Article VI E, the agenda procedure reads to him that the agenda will be made by the panel. Special meetings work sessions is clearly written that no official action will be made at those meetings. The staff is there to provide expertise and they will have to put the presentation into a document form.

In terms of the 2/3 majority, he understands that the intent was to ensure that no one was edged out by simple majority and no one's voice would be left out. He feels that will ensure moving forward in confidence.

Commissioner Good Geise stated the 2/3 majority is essential because it is very difficult to get a 2/3 majority. That is the point. Every person's voice will be heard.

On October 6, 2020, she stated there were difficult decisions made by the legislation by a simple majority. The purpose of a super majority is so that every voice is heard. It is essential in the planning of how this valley is going to develop. There are going to be robust voices, big opinions, and self-interest and at the end of the day, it will come to this body to act in the public interest. No group shall have control and if you have a super majority, the product will be durable and defensible and will allow us to work together as a community. Those that want to be appointed there will be people that have vigorously opposed Part 2 zoning. This is going to be hard work and the group is going to be charged with acting in the public interest.

Commissioner Good Geise suggested that staff reviews the concerns heard today with the bylaws and see if they can be modified. She suggests reaching out to Ms. St. Laurence.

Commissioner Hunthausen stated that the main issues he sees as important is the standing panel and the recommended vs. assist language.

Commissioner Good Geise stated when the group meets, they will see the value of their work and why it is important for the group to continue. At that point the group can recommend to the Commission that they be made a standing committee.

Commissioner McCormick stated super majority does mean something with 12 members a super majority would be 8 members and a simple majority would be 7. He does not see any issues with the super majority

Mr. Italiano stated the bylaws are an exhibit of the resolution and if the resolution is adopted the bylaws are also adopted. The panel should be a fixed in time panel, let it run its course and if needed, reinstate the panel. Do you want to change the wording from assist to recommend?

Commissioner Good Geise stated there is a motion and a second. The motion Passed on a 3-0 vote.

Roger Baltz, Chief Administrative Officer reiterated that letters from interested parties need to be received by December 14, 2020, which is 4 weeks from today. The instructions are on the County website. Selections will be brought to the public meeting on December 22, 2022.

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

John Herrin, Sundown Road, stated he cannot believe he did not hear any of the Commissioners address the issue of the fire out gate, as he believes it is critical. He is appalled at the lack of the effort on the County to be responsive to valid concerns and questions about issues and what the board will do.

Commissioner Good Geise pointed out that he had already brought up these concerns earlier in the meeting and he needs to bring up other comments that have not been discussed on the agenda.

Nicho Hash, Deputy County Attorney, stated it is true legally that it is time to listen to public comment that is not on the agenda today. He told Mr. Herrin that if he in fact does comment that is not on the agenda, he is entitled to talk about it. He also reminded the public that you address the Board of Commissioners as a whole and not individual members.

Mr. Herrin continued with discussion on the growth policy.


We need to integrate this plan as far as outreach to the community. No one even bothered to discuss the fact that the public needs to be involved in the planning process.

Adjourn

There being no further business, the meeting adjourned at 11:07 a.m.

Meeting minutes approved on 10.4.22

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Jim McCormick, Chair

Tom Rolfe, Vice Chair


Andy Hynthausen, Member

ATTEST:


Amy Reeves, Clerk of the Board