



## **PUBLIC MEETING**

November 21, 2019  
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, November 21, 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, Peter Italiano, Charles Lane, Reese Martin, Lindsay Morgan, Spencer Starke, Audra Zacherl, Kim Smith, Jeannene Maas, Kathy Fiehn, Wayne Waters, Joellen Moon, Marcia O'Dell, Ed Sherman, Ken Moore, Stephanie Beckert, Mary Olson, Bud Olson, and Nadine McCarty, Recording Secretary.

### **Pledge of Allegiance**

Everyone recited the pledge.

### **Consent Action Items**

- a. Public Meeting Minutes for December 18, 2018; May 14, June 25, 27, and November 7, 2019.  
(Nadine McCarty)

Roger Baltz reported on 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 Hunthausen. The motion Passed on a 3-0 vote.

### **Proposed Adoption of the Lewis and Clark County Continuity of Operations Plan. (Reese Martin)**

Reese Martin, Disaster and Emergency Services Coordinator, presented the Lewis and Clark County Continuity of Operations Plan (COOP). The plan details how the County will continue to function to provide services to the community in the event of an emergency or disaster that forces government buildings to be abandoned or relocated.

Mr. Martin stated the COOP will run in conjunction with the Devolution of Government Plan that will be approved by Roger Baltz, Chief Administrative Officer and is the actual implementation of the COOP. He added he has been working on this plan along with many others for almost a year.

Mr. Martin added the plan is designed to allow for any changes based upon the conditions, such as relocation of sites.

Mr. Martin noted the appointed director of the emergency response group will work with himself and the department heads to schedule times to go over the plan to ensure all involved are comfortable with their individual roles and the procedure.

No public comment was received.

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

**Contract Between Lewis and Clark County and Great West Engineering. (Audra Zacherl)**

Audra Zacherl, Public Works Assistant Director, presented the contract with Great West Engineering for time and materials to complete and perform necessary engineering services for the Phase 4A Cell Construction Project at the Lewis and Clark County Landfill. The contract includes a topographical survey of the expansion area; alternative liner demonstration and hydrogeologic and soil studies; seismic demonstration; preparation of the design, plans and specification; cell excavation staking; bidding and award assistance; construction engineering and project management. Compensation is not to exceed \$176,000 with Tasks one through five totaling \$79,000, budgeted in the current fiscal year Landfill capital fund with Tasks six and seven totaling \$97,000 to be budgeted in the FY2021 budget. Construction for the project is anticipated in the late summer and fall of 2020 and the contract will extend through the warranty period, expiring on December 31, 2021. Staff recommends approval of the contract with Great West Engineering.

Ms. Zacherl stated the work needs to be done prior to the opening of a new cell.

Stephanie Becker, Great West Engineering, explained the process of a landfill cell from design to end and noted each cell is designed at the landfill to hold seven years of trash. Ms. Becker added a landfill will last at least 80 to 90 years. She added hopefully by then something else will occur with the trash.

No public comment was received.

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

**Subdivision Improvements Agreement Extension Request: Amended Plat of Lot A-5 of the Clark Minor Subdivision. (Applicant: GMH Field LLC) (Planner: Spencer Starke)**

Spencer Starke, Planner I, presented the Subdivision Improvements Agreement (SIA) extension of the completion date request for the amended plat of Lot A-5 of the Clark Minor Subdivision. The original SIA was approved at the time of final approval for the Subdivision and no extensions of the SIA have previously been granted. According to the application form, the Applicant requested the extension because the Applicant would prefer to complete the road construction after the homes have been built or partially built. The Applicant also stated there is a plan to complete the other required improvements at the same time the roads are being constructed. The property is located northwest of and adjacent to York Road, across from the intersection of York Road and Cupid Drive.

The Subdivision was granted preliminary approval on June 25, 2015, with final approval on February 28, 2019. The SIA was entered into at that time to guarantee the improvements would be completed by November 10, 2019. The improvements to be completed are: the remaining stormwater improvements; installation of the road approach culvert for Cupid Drive, internal access road; the remaining road improvements for Cupid Drive; and installation of the fencing along the edge of the easement for the irrigation ditch. Staff identified a public health and safety issue with the improvement proposal, namely the irrigation ditches that run along the property boundary. Staff recommends two completion dates: the first is the fencing to be completed by March 1, 2020, which is just prior to the water being turned back on for the irrigation ditch; the second completion date of September 1, 2020 is for the paving, stormwater system and culvert installation.

The Applicant also submitted an updated engineer's estimate for the costs associated with the remaining improvements, and two updated Irrevocable Letters of Credit with amounts equal to 125% of the costs associated with completing the remaining improvements. The SIA has been amended to include the two completion dates: March 1, 2020 for the fencing improvements, and September 1, 2020 for the remaining road, culvert, and stormwater improvements. Both Irrevocable Letters of Credit will

expire December 10, 2020. Staff recommends approval of the extension request for the amended plat of Lot A-5 of the Clark Minor Subdivision.

Mr. Starke stated the Applicant was unable to attend the meeting, but he believes the first course of the road was put down to allow for heavy equipment to excavate the foundations and once the slabs are installed the paving and other improvements would be completed. He added the Applicant has agreed with the completion dates.

No public comment was received.

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

**Creation of Boundaries for Proposed Special Zone District No. 51. (Tabled 11-12-19) (Planner: Lindsay A. Morgan)**

Lindsay Morgan, Planner III, presented the request to create the Special Zone District No. 51 that was heard on November 12, 2019 to receive public comment. The petition to create the District was submitted in August, 2019 with approximately 63% of the affected landowners signing the petition. The proposed District is approximately 389 acres located south of Forestvale, mostly east of Green Meadow Drive, the south boundary is mainly Mill Road with some areas going further south and an area on the eastside where it goes a little north, and the east boundary follows McHugh Lane just east of Kerr drive and Lynn Road.

According to the petition, the purpose of the District is to accommodate and protect the use of low-density, single family dwellings and the 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. Ms. Morgan added the proposed boundaries of the District followed property boundaries in all areas with the exception of one area and this area boundaries follow a different special zone district located in the southeastern corner. Staff recommended in that area that the western and eastern properties be included and exclude the middle property. Two of the lots will have double zoning and is not inconsistent with other Part 1 and Part 2 zone districts.

Ms. Morgan gave an overview of the three step process involved in Part 1 Zoning: 1) creation of boundaries; 2) adoption of the district neighborhood plan; and 3) adoption of district regulations, not that each step requires review. She added during each step public comment will be accepted. If the decision is to create the boundaries a 30-day protest period will begin and will be posted in the newspaper as well as sent to property owners within the district. If landowners representing 50% of the titled property ownership protest, the district cannot be established.

Ms. Morgan discussed responses to the questions that were heard at the November 12, 2019 meeting noting they were posted on the main page of the County website and also on the County Planning page. Hardcopies are located in the County Planning Department and Ms. Morgan brought some to the public meeting.

Ms. Morgan explained step 2 of the Part 1 Zoning process.

Commissioner McCormick asked that public testimony from the November 12, 2019 meeting be brought forward to this meeting.

**PUBLIC COMMENT -**

Archie Harper, homeowner, stated the reason the east area that entails Kerr Drive was included for the district is the property owners wanted to see it as they are on the frontline of the proposed gravel pit. In addition many people are downstream from the proposed area and are concerned about water quality. Mr. Harper added he had property owners outside of the proposed District that wanted to sign the petition as well. Mr. Harper stated a committee has been formed representing the citizens in the proposed district boundary.



Jeanine Maas, property owner, asked how many property owners are there in the district. She added that going forward please have more public meetings got more to be involved.

Ms. Morgan stated she will have to get the exact number of property owners in the proposed district. She added staff goes above and beyond regarding notices by mailing to property owners.

Wayne Waters, 5485 Sahara Court, stated they took petitions and the way he understands it, they got 90% from the properties in the upper right corner of the map and is not sure petitions were taken from east of McHugh. He asked if those on the eastside of McHugh were added after the petition and is the reason for being at 63 percent.

Archie Harper, stated they tallied 73 to 74 percent and stopped petition drive at that time knowing they were well over the 60 percent. They would like to know where the discrepancy lies.

Ms. Morgan explained how the percentage is obtained and added there were 398 eligible property owners and 251 of them signed the petition.

Kim Smith, 7510 Applegate Drive, stated he visited with Mr. Harper and he expressed a desire to meet with their group. He added he would encourage the meeting and would like to have the County involved in the meeting as well.

Charles Lane, Deputy County Attorney, stated the County is following the correct administrative process. He added he believes in the past County staff has joined meetings to provide factual information and it could be an option with the group.

Mr. Smith stated the boundaries of the proposed District, currently drawn have allowed large property owners to opt out and others to be included. He believes the boundaries are convoluted and is not in favor of them.

Marsha Odell, 671 Edgerton Road, stated she is very much in favor of the creation of the district and is worried about water quality, dust, noise, trucks, etc...

Josh Pierson, stated the proposal was brought to him right after the flood and they were going to address those issue. He had no idea of the gravel pit. His biggest issue is the flooding that occurs and would like to know if this will help and if not would not like to be involved.

Mr. Waters stated the boundary proposals are good. This is becoming an area 51 instead of a Zone 51. He added there is a time and a place for a business and it is not this place.

A motion was made by Commissioner Hunthausen to approve the request to create the boundaries of Special Zone District No. 51 and open the 30-day protest period. The motion was seconded by Commissioner Good Geise.

Commissioner Good Geise read from MCA 76-2-101 permitting citizens to initiate zoning if 60 percent of real property owners petition for the forming of the zoning district. She added Commissions are under no obligation to form the district. She reviewed the reason citizens have been accorded the right to petition for zoning in a specific area, noting that citizens initiate Part 1 Zoning requests when local government have not initiated Part 2 Zoning that is undertaken with the wider general public interest.

Commissioner Good Geise added this Commission will look at establishing Part 2 Zoning and the Planning Department will hold meetings with developers, realtors, and agriculture producers to get zoning done correctly. Public meetings regarding Part 2 Zoning will be held in December and January. She added there is no certainty in Part 1 Zoning.

Commissioner Hunthausen agreed the Part 2 Zoning will be more comprehensive and durable, however, Part 1 Zoning has been brought before the Commission with over 60% of petitioners.

Commissioner McCormick stated today the consideration is whether to create the district boundaries.

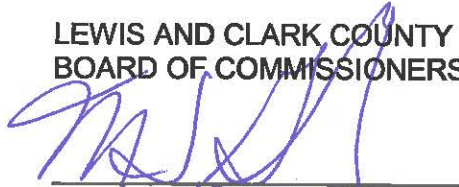
Commissioner McCormick stated there is a motion on the table. The motion Passed on a 2-1 vote with Commissioner Good Geise in opposition.

**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 10:35 am.

LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
Susan Good Geise, Chair

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Andy Hunthausen, Vice Chair

  
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Jim McCormick, Member

ATTEST.

  
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Paulette DeHart, Clerk of the Board