



PUBLIC MEETING
November 29, 2016
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, November 29, 2016, at 9:00 AM in Commission Chambers Room 330.

Roll Call

Chairman Mike Murray called the meeting to order at 9 a.m.

Commissioner Susan Good Geise was present and Commissioner Andy Hunthausen was out on jury duty. Others attending all or a portion of the meeting included Eric Bryson, K. Paul Stahl, Kevin Hamilton, Melanie Reynolds, Jeanne Underhill, Audra Zacherl, Drenda Niemann, Matt Heimel, Lindsay Morgan, Greg McNally, Mark Simonich, Grant Kerr, Jay Erikson, Jessie Wiese, Debra Tillo, Sharon Davis, Jolene Helgerson, Jan Williams, Jim Wilbur, Jennifer McBroom, James Mitchell, Dorothy Mitchell, Connie cole, Linda Simmons, Marissa Cover, Candis Kay Loberg, Mike Bishop, Andrew Bishop, Amy Anderson, Julie Lamb-Heller, Christian Dietrich, Andrea Silverman, Jeanne Underhill, Mickie Sennett, Al Knauber, and Nadine McCarty, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Announcement

a. Employee Recognition (Melanie Reynolds)

Melanie Reynolds, Health Officer, recognized Jeanne Underhill for her 32 years of service in Lewis and Clark County Public Health. Ms. Underhill is the Public Health Nurse Supervisor in the Home and Community Based Services Program. She was recently awarded the Montana Public Health Association Career Award.

The Commissioners thanks Ms. Underhill for all her years of service to the County and wished her well on her retirement.

Consent Action Items

- a. Resolution 2016-102 Declaring County Property Surplus Property. (Amy Reeves)
- b. Resolution 2016-103 Declaring County Property Surplus Property. (Amy Reeves)

Eric Bryson reported on the consent action items 2 a-b and recommended approval.

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 2-0 vote.

Change Order No. 1 to the Contract Between Lewis and Clark County and Schellinger Construction Co., Inc. (Audra Zacherl)

Audra Zacherl, Assistant Director of Public Works, presented change order number 1 to the contract between Lewis and Clark County and Schellinger Construction Company, Inc. for the Beartooth Road Resurfacing Project. This change order consists of various changes that can be summarized into three things. The first for \$217,583 and is related to additional road subexcavation based on field conditions. Roadway conditions degraded between the 2015 development of plans and the 2016 summer construction season. The second change is an adjustment of bid quantities to actual quantities. Deduction and additions total \$58,974.55. The third change is for additional sediment wattles that were needed to provide improved erosion control. These wattles help divert runoff from specific areas until they become revegetated. This is an increase of \$5,984. The total for the change order is for an additional \$282,541.55. Funding for the project is through the Western Federal Lands Highway Division Federal lands Access Program. Staff recommends approval of the change order.

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 2-0 vote.

Grant Application to the Montana Department of Agriculture Noxious Weed Trust Fund (Audra Zacherl)

Audra Zacherl, Assistant Director of Public Works, presented a grant application to the Montana Department of Agriculture Noxious Weed Trust Fund. This grant application is being submitted on behalf of the Ponderosa Snow Warriors. The volunteer based group provides weed management on over 500 miles of trails in the Lincoln area, spraying over 875 acres of US Forest Service, Department of Natural Resources and private lands. With this grant, the Snow Warriors are proposing containment of noxious weeds through herbicide application on 400 acres of County, State and Federal lands. Grant funds requested are \$5,350 with a total project cost of \$14,900. The match portion of \$9,550 will be the responsibility of the Snow Warriors; no county funding is required. Staff recommends approval of the grant application.

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 2-0 vote.

Task Order 17-07-5-41-177-0 to Lewis and Clark County from Montana Department of Public Health and Human Services (Drenda Niemann)

Drenda Niemann, Community Health Promotion Division Administrator, presented Task Order 17-07-5-41-177-0 with the Montana Department of Public Health and Human Services for the Health Montana Families grant in the amount of \$131,327.84. The grant period is January 1, 2017 through June 30, 2018. The purpose of the grant is to provide home visiting and family support services as required by the Healthy Montana Families program (HMF). HMF requires implementation of the Nurse-Family Partnership as the evidence-based home visiting model. This model serves an average caseload of 23 high-risk, low income, first time pregnant women starting before 28 weeks gestation through 2 years of the child's life. Staff recommends approval of the task order.

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 2-0 vote.

Request for Open Space Bond Funds for Transaction Related Costs of the Lincoln Community River Park Project (Sponsor: Five Valleys Land Trust) (Planner: Matt Heimel)

Matt Heimel, Planner I, presented a request for open space bond funds for transaction related costs for the Lincoln Community River Park Project. The sponsor for the application is Five Valley Land Trust. Funding in the amount of \$85,000 for the Lincoln Community River Park acquisition was approved on November 10, 2016. The original application included a request for bond funds to be applied to the transaction related costs of the project. Those costs total \$17,887.

At question is whether or not bond funds can be used to pay for transactional related costs. Bond counsel has advised the County that they can indeed be used to cover those costs; however, the County Attorney's Office does not agree with that opinion.

PUBLIC COMMENT -

Christian Dietrich, Attorney for Montana Land Reliance, stated it's clear too he feels that bond funds can be used for transaction costs.

Grant Kier, Executive Director of Five Valley Land Trust, thanked the Commission for continuing the discussion. He feels that the spirit of the bond allows for transactional costs to be reimbursed. Not reimbursing those expenses can be a disincentive to future applicants. He added that their closing date is December 20th.

Connie Cole, 6040 Ferry Drive, stated the Lincoln project is an absolute jewel. She hopes the Commissioners will vote in favor of this project.

Jay Erickson, Montana Land Reliance, stated when he looked at the bond language, it was silent on funding transaction costs. Other counties in the state do pay those costs.

Upon no further testimony or comment, Commissioner Murray stated that the public comment is now closed.

Commissioner Murray asked that the county attorney's office continue to work with the applicant to accomplish the December 20th closing date.

A motion was made by Commissioner Geise to table the item to the December 13 public meeting. The motion was seconded by Commissioner Murray. The motion passed 2-0.

Variance Request in Special Zoning District No. 5-A (Applicant: Heller Development, L.L.C.) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented the variance request from the R-1 Zone regulations of special zoning District No. 5-A to allow for a public wastewater treatment system on a lot as the principal use of the property. The property is located east of North Montana Avenue, south of Mineral Road, and west of and adjacent to Interstate 15 in the preliminarily approved 46 Degrees North Subdivision. The applicant is Heller Development, LLC. The applicant did receive preliminary approval for the subdivision on March 26, 2015 for two phases; Phase 1 would contain 4 commercial lots, 45 single family residential lots, a park and a public wastewater treatment system lot that would be located on future Phase II. Phase II will contain 43 single family residential lots, and a smaller lot for the wastewater treatment lot. According to the regulations for this R-1 Zone, a wastewater treatment system is not considered a permitted use as a principle use for properties. The applicant is requesting a use variance, which if approved will authorize the property owner to establish a wastewater treatment system as the principle use of a property. Letters were sent to adjacent landowners on October 26, 2016 notifying them of the requested variance. As of today, staff had received 2 comments regarding the request.

The process for evaluating a variance states that two criteria to determine findings-of-fact and the suitability of a request must be looked at. Those criteria are: a literal enforcement of the zoning regulations would result in an unnecessary hardship to the applicants; and, that the variance is not contrary to public interest. According to criteria number one, if the use variance is not granted, the preliminarily approved Subdivision would need to be resubmitted with a new design that allows for individual on-site wastewater treatment systems. Additionally, this system has already received approval from the Montana Department of Environmental Quality. With regards to the second criteria, a public wastewater treatment system will provide services for all lots within the preliminarily approved 46 Degrees North Subdivision. Without a public system to provide these services, individual, on-site wastewater systems would be required, and therefore lot sizes would likely be larger and uses may need to be amended.

The Planning and Zoning Commission met and also found that both criteria had been met and that the variance request is not contrary to the public interest. In a vote of 5-0, the Planning and Zoning Commission did recommend approval of the variance request.

PUBLIC COMMENT -

Ryan Casne, representing Heller Development, asked that the variance request be approved.

There being no further public comment, Commissioner Murray closed the public hearing.

A motion was made by Commissioner Geise to incorporate the minutes from the Planning and Zoning Commission into the public record for this item. The motion was seconded by Commissioner Murray. The motion passed 2-0.

A motion was made by Commissioner Geise to approve variance as outlined by staff and recommended by the Planning and Zoning Commission. The motion was seconded by Commissioner Murray. The motion passed 2-0.

Appeal. 46 Degrees North Subdivision Modification Requirement. (Appellant: Heller Development, LLC) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented the appeal regarding the requirement by the Community Development and Planning Department to modify the preliminary approval of 46 Degrees North Subdivision in order to relocate a component of the wastewater treatment system from Lot 89 to Lot 51. The Subdivision is located east of and adjacent to North Montana Avenue, south of Treasure State Acres, and west of and adjacent to Interstate-15. Planning staff determined that a modification to the preliminary approval of the subdivision is required because lot 51 has preliminary approval as a single-family residential lot; the approved preliminary plan has lot 89 as the utility lot for the public wastewater system; the lot 51 is located in close proximity to residential lots in an abutting subdivision; neither the sequencing batch reactor nor a utility easement for that facility on lot 51 was disclosed in the public meetings held for input on the proposed subdivision; the preliminary approval conditions require that the applicant apply for and receive a variance from the zoning requirements to allow for a community wastewater system to be located on Lot 89; and, the public review process, findings of fact, and preliminary approval conditions did not contemplate a use of lot 51 as a location for a major component of that non-conforming use. If the Commission agrees with this determination, the applicant will be required to go through the modification process and receive approval from the Commission to relocate the component of the wastewater treatment system. If the Commission disagrees with it, the applicant will be able to relocate the sequencing batch reactor to Lot 51 as long as all other requirements are met. There is a DEQ approval as the system is currently situated on the property. Ms. Morgan stated the planning department wanted to allow the public time to comment on the relocation. All adjacent property owners were notified for the variance request so they are aware that a public wastewater treatment system may be located on Lot 51.

PUBLIC COMMENT -

Mr. Casne, representative for Heller Development, stated that lot 51 is a large lot and they are not asking for the primary use to change; that lot will remain a single-family residential lot as it was preliminarily approved. He reiterated that they are just asking for an easement and not asking for a modification to a condition of approval.

With no further public comment, Commissioner Murray closed the public hearing.

A motion was made by Commissioner Good Geise to grant the appeal. The motion was seconded by Commissioner Murray. The motion passed 2-0.

Proposed Amended Plat of Lot 1A-1B of the Foster Ranch Tracts (Ranger Estates Subdivision) (Tabled 11/1/16) (Applicant: Jim Mitchell) (Planner: Lindsay Morgan)

Greg McNally, Planner II, presented the proposed amended plat of Lot 1A-1B of the Foster Ranch Tracts. The application has been presented to the Commissioners on November 1st and November 3rd. Mr. McNally added that the applicant and the applicant's representative, Mr. Prothero, would like to have a full commission when a decision is rendered.

Tony Prothero, 151 Lump Gulch Road and applicant's representative, stated he would like to have all three commissioners present at decision time and requested the review period be extended to December 13th and that the final decision be rendered on December 15th.

PUBLIC COMMENT -

Jim Stiffler, 4276 Canyon Ferry Road, stated he would wait until December 13 to give his public comment.

Commissioner Murray stated the public hearing will remain open until December 13th.

A motion was made by Commissioner Geise to table the item until December 13th. The motion was seconded by Commissioner Murray. The motion passed 2-0.

Public Hearing on Amendments to the Lewis and Clark County Subdivision Regulations. (Greg McNally)

Greg McNally, Planner II, presented recommended amendments to the Lewis and Clark County Subdivision Regulations. The amendments have been recommended by the City-County Consolidated Planning Board. The Subdivision Regulations provide regulatory guidance to planners and developers alike. They provide minimum standards on the subdivision of land to promote public health, safety and welfare. The purpose of the proposed amendments are to remove redundant or inconsistent regulation to reconcile the Subdivision Regulations with the Public Works Manual that was adopted by the Commission in November 2014; and, to consolidate the separate provisions for reviews of major, minor, and subsequent minor subdivision to eliminate 24 pages of redundant text. The amendments will also address language and policy questions that have risen since the adoption of the December 2013 regulations. The Planning Board held a public hearing on June 21, 2016 and on September 20, 2016 they unanimously recommended the proposed amendments.

The first proposed amendment will move the road standards out of the Subdivision Regulations and place them in the Public Works Manual. The Public Works Manual covers all the issues regarding roads, road construction, etc. and is the most appropriate place to have those requirements. The Subdivision Regulations reference the Public Works Manual so it does direct developers to the appropriate place for directions.

The second proposed amendment is to consolidate chapters on major and minor subdivision applications.

The final amendment is to address issues that have been noted since the last adoption of the regulations. They are recommending adding a completeness and sufficiency review for final plat. This will provide clarity to the applicant as to where they are in the process of final plat and what is further needed to get to completion. Another addition being recommended is to specify improvements that are needed for public safety and building occupancy must be completed before final plat. These sort of improvements include but are not limited to signage and fire protection. This is allowed in the statutes and insures that the safety improvements will be completed prior to final plat.

Mr. McNally suggested that the Commission extend the public hearing to allow for public comment from the Lincoln and Augusta public meetings to be held on December 2 and December 9.

Mr. McNally added that the Helena Association of Realtors has commented on the proposed amendments. They have concerns about maintaining and updating the provisions for the expedited reviews of subdivisions in the Urban Growth Area around Helena.

PUBLIC COMMENT -

Mark Simonich, Helena Association of Realtors, complimented the county planning staff. They would like to keep the sections regarding environmental assessments and wildlife impacts in zoned areas in the subdivision regulations. They feel it's in the public interest to leave those in and update the language. They urged the Commissioners to adopt the proposed amendments.

A motion was made by Commissioner Geise to keep public hearing open so that the proposed amendments can be presented at Lincoln and Augusta Government Day meetings and render a final decision at the regular December 13th public meeting. The motion was seconded by Commissioner Murray. The motion passed 2-0.

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 11:15 am.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Susan Good Geise, Chairman




Andy Hunthausen, Vice Chair



Jim McCormick, Member

ATTEST:


Paulette DeHart, Clerk of the Board