



PUBLIC MEETING

November 3, 2015

MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, November 3, 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 was present. Commissioner Mike Murray was excused on County business. Others attending all or a portion of the meeting included Eric Bryson, Michele Peterson-Cook, K. Paul Stahl, Lindsay Morgan, Kevin Hamilton, Drenda Niemann, Linda Ingersoll, Ron Ingersoll, John Paul, Tom Thompson, Art Thompson, David Brown, Barb McDonough, Rob McDonough, Patrick McDonough, Lyn Edwards McDonough, Ty Steinbach, Nicholas Smetana, Frank Rives and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

- a. Resolution 2015-153 Authorizing Signatories For The State of Montana Property & Surplus Bureau. (Paulette DeHart)

Eric Bryson reported on the consent action item 2a 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 2-0 vote.

Contract Agreement Between Lewis and Clark Public Health and Missoula City-County Health Department. (Drenda Niemann)

Drenda Niemann, Community Health Promotion Division Administrator, presented the contract between Lewis and Clark Public Health and Missoula City-County Health Department in the amount of \$27,293.60 for Nurse-Family Partnership supervision. The program includes five Counties and serves up to 25 families at a time within our County. The contract period is July 1, 2015 through June 30, 2016.

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 2-0 vote.

Proposed Modifications to Canyon Ferry Crossing Subdivision V. (Applicant: Canyon Ferry Crossing Inc.) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented applicant's request that the County Commission amend the plat of the preliminarily approved Canyon Ferry Crossing Subdivision V to increase the acreage of Lot 2 to over five acres in size. The applicant's proposed modifications to the boundaries of preliminarily approved Lots 2, 4, and 5 of the Canyon Ferry Crossing Subdivision V, located northwest of and adjacent to Magpie Gulch Road, and east of and adjacent to Sunset Ridge Drive. Preliminary approval of this 19-lot Subdivision (18 lots for single-family residential purposes and one lot for a wildlife corridor) was granted by the County Commission on November 6, 2008. The Applicant is now seeking to modify Lots 2, 4, and 5 of the preliminary plat. In the Summer of 2015, it was brought to both the County and Mr. Kloepfer's attention that covenants were placed on a portion of this property. This was due to a boundary line relocation that occurred in 2002, which increased the acreage of this property and reduced the acreage of two adjacent properties. These adjacent properties were subject to covenants that were placed on them in 1976. Because covenants run with the land, the restrictions remained on the newly acquired acreage. These covenants require a minimum lot size of five acres, and Lot 2, which lies within the portion of the property subject to these covenants, is less than five acres in size. In order to comply with these covenants, Mr. Kloepfer is requesting to amend the boundaries of Lots 2, 4, and 5 to increase the acreage of Lot 2 from 2.766 acres to 5.07 acres in size. To accomplish this, he is reducing the acreage of Lot 4 from 7.224 acres to 5.97 acres in size and Lot 5 from 6.151 acres to 5.10 acres in size. All three of these lots contain preliminarily approved building envelopes, none of which will be amended by the proposed modifications. After a full review of the request and with no comments received from any agencies, Staff has found that the proposed modifications to the boundaries of preliminarily approved Lots 2, 4, and 5 will have no impact on the preliminary approval, as the on-site building envelopes for each of these lots will remain in the original locations.

Commissioner Geise stated there were no adverse comments received from adjacent property owners or other agencies.

Commissioner Hunthausen stated the facts have been established in terms of the applicant's intentions to bring the lots into compliance with the covenants.

No public comment was received.

A motion to approve the modifications to the plat for Canyon Ferry Crossing Subdivision as outlined by staff was made by Commissioner Geise and seconded by Commissioner Hunthausen.

Lindsay Morgan presented the twelve findings of fact in regards to the subdivision modification request.

A motion to adopt a conclusion of law that the modifications to the plat will have no impacts on agriculture and agricultural water users facilities, local services, the natural environment, wildlife, wildlife habitat or public health and safety was made by Commissioner Geise and seconded by Commissioner Hunthausen. The motion Passed on a 2-0 vote.

There is motion on the floor to approve the modification request. The motion Passed on a 2-0 vote.

Request to Reopen a Segment of Lewis and Clark Pass Road. (Applicant: Ron Ingersoll) (Planner: Frank W. Rives)

Kevin Hamilton, Deputy Director of Planning, presented the request to reopen for motorized traffic a segment of Lewis and Clark Pass Road. The segment of road proposed to be reopened is approximately two miles in length and 60 feet wide. The applicant requests to reopen and reestablish to motorized traffic a segment of Lewis and Clark Pass Road in Sections 17, 18, and 19 in order to access his property. The applicant's property cannot be accessed by motorized vehicles, due to the closing of the road to motorized traffic in 1993 and was never abandoned or vacated by the County Commissioners. The road segment remains open for non-motorized access to public lands to the west.

Ron Ingersoll, 6052 HWY 200, the applicant, stated he was involved with closing the road in 1993 and did not realize the consequences at the time. By opening the road it would allow his legal access to his land by vehicle.

Commissioner Geise asked the applicant about the meaning of insurable access and about his comment in regards to his comment about the consequences.

Ron Ingersoll stated access was not as big of an issue as it is today and stated insurable access would add value to his land.

Commissioner Geise asked for his vision as part of the request.

Ron Ingersoll stated the road is impassable but it would ensure he has access to his property.

Commissioner Hunthausen asked if section 19 is the only public access to his land.

Ron Ingersoll stated that the only public access is through section 19. He further stated he is looking for legal and physical access to his land.

PUBLIC COMMENT-

John Paul, 4295 Montana HWY 200, wanted to clarify that the request is to reopen a portion of the road, not for a subdivision as stated in a letter sent by Karin Rutherford as the last line on the letter states if you have questions in regards to the proposed subdivision please contact the Planning Department. He further stated his support for the request.

Barb McDonough, 5835 Lewis and Clark Pass Road, stated the road in question is on private land. She stated the applicant wants to sell his land and that the applicant has access to his cabin but it does not apply to anyone who purchases the land. She further stated there is a conservation easement that does not allow a road to be built.

Commissioner Hunthausen asked if Lewis and Clark Pass Road is public.

Paul Stahl, Deputy County Attorney, stated that there is some public nature to the road since it was closed in 1993.

Commissioner Geise asked if it is uncommon to have a public road go through private land.

Paul Stahl stated that is not uncommon and further stated the road was not abandoned, but closed to motorized vehicles.

Ty Steinbach, 6320 Lewis and Clark Road, stated the Ingersoll's have access through McDonough's land to get to their property. The concern is due to the applicant wanting to sell the property. He stated his opposition to the proposal.

Commissioner Hunthausen asked Mr. Steinbach if he had the right to sell his ranch as the applicant does.

Ty Steinbach stated that is correct.

Commissioner Hunthausen asked if the property were to be sold it is within the applicant's rights to so.

Ty Steinbach stated that is correct.

Commissioner Hunthausen asked about access to the land.

Ty Steinbach stated there is public access through HWY 200.

Commissioner Geise asked for clarification on the road in question being closed to motorized traffic currently and the proposal is to reopen the road to motorized access.

Paul Stahl stated that is correct.

Art Thompson, 7950 Birdtail Road, stated there is a road on section 9 where most of the traffic goes on due to the closure in 1993. He stated his support with Mr. Steinbach's comment to close the road further and further stated if the road is opened it should be opened all the way to Alice Creek.

Rob McDonough, 5545 Lewis and Clark Pass Road, stated the road is exactly the same as it was in 1803. He stated the sale of the land could scar the area.

Lyn Edwards McDonough, 402 Lilac Street, WI, stated the road is hard to get to and due to weeds, erosion and the road going through private property is in opposition.

David Brown, 4510 Harmony Road, stated resolution 1993-117 restricted vehicular access and did not abandon any public easements. He further read a staff memo and a letter from the McDonough family from 1993. He stated he believes the conditions are sufficient at this time.

Linda Ingersoll, the applicant, stated the issue came about when the Forest Service expressed interest in owning section 19. The title company told them they do not have legal and insurable access to their land. She further noted that the property cannot be sold as it is due to it being landlocked.

Commissioner Geise asked the applicant if legal, insurable access is tied to motorized access.

Linda Ingersoll stated the title company stated that motorized access is tied to having legal, insurable access.

Commissioner Geise clarified that there is legal access by foot.

Linda Ingersoll stated that is not what she was told by the title company.

Commissioner Hunthausen asked if section 19 has a conservation easement.

Linda Ingersoll stated that section 19 does not but sections 17 and 18 have a conservation easement.

Commissioner Hunthausen asked about access from section 19 to HWY 200.

Linda Ingersoll stated there is access through Elk Mountain Meadows but they do not have access to that.

Commissioner Geise asked the legal staff about the road being a public road and how it is defined and further asked what if any obligation does the County have to that road.

Michele Peterson-Cook, Deputy County Attorney, stated there are multiple forms of County roads. She would like more time to review the specifics of this road in order to answer that question.

Commissioner Geise stated she would like further clarification from legal staff on the term of legal and insurable access and if that was dependent on motorized traffic as well.

Commissioner Hunthausen asked legal staff to look into the nature of the road, jurisdiction for the County, any possible access through Elk Meadows Subdivision and if there is any access and asked if they can close an existing public road to vehicular access from a legal perspective.

Commissioner Geise asked for the staff report, files and any information from planning from 1993 and if the Commission can take the potential sale on land into consideration in their decision.

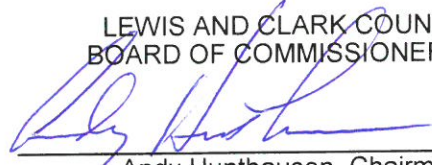
A motion to leave the public hearing open and accept public comment until the next regularly scheduled meeting on November 12, 2015 was made by Commissioner Geise and seconded by Commissioner Hunthausen. The motion Passed on a 2-0 vote.

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 10:16 am.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Andy Hunthausen, Chairman

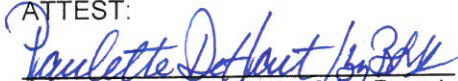


Michael Murray, Vice Chair



Susan Good Geise, Member

ATTEST:



Paulette DeHart, Clerk of the Board