



PUBLIC MEETING
November 30, 2017
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, November 30, 2017, at 9:00 AM in Commission Chambers Room 330.

Roll Call

Chairman 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, Marni Bentley, Brian Coplin, Kari DesRosier, Jerry Hamlin, Nicho Hash, Matt Heimel, Dean Retz, Paul Spengler, Robert Utick, and Nadine McCarty, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

a. Vendor Claims Report for Week Ending December 1, 2017. (Marni Bentley)

Roger Baltz reported on the consent action item 2 a and recommended approval.

No public comment was received.

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

Contract Amendment Between Lewis and Clark County and Communication and Management Services, LLC. (Kari DesRosier)

Kari DesRosier, Director of Human Resources, presented the contract amendment with Communication and Management Services (CMS) for consulting services. The services requested are for developing recommendations and guidelines for adjusting the County's existing pay plan in order to remain competitive for recruiting and retention purposes. The amendment is for an amount not to exceed \$10,000; all other provisions in the contract remain the same. The contract is good through January 23, 2019. Staff recommends approval.

Ms. DesRosier stated the county compensation system is based on market. Every two years the county goes through a market salary and has used CMS for those services. In addition they are using CMS to build on the recommendations and findings from the most recent survey and work on building or revising the current pay plan.

No public comment was received.

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

Appeal. Floodplain Development Permit Application Denial for Red Fox Meadows Subdivision (Appellant: Hamlin Construction and Development Co., Inc.) (Floodplain Administrator: Paul Spengler)

Commissioner Good Geise stated the hearing was closed last week after receiving and accepting some late comments. She stated the hearing will be reopened to address some questions from the testimony that was received on Thursday, November 21, 2017 morning. The hearing will be left open until December 19, 2017 at which time a decision is expected. After having reviewed the late testimony the following questions were raised: why were there no site visits made by the Department of Natural Resources and Conservation (DNRC); what is the affect of the irrigation canal; the concern raised about the Montana Department of Transportation (MDT) road permit; why were regression equations used that were promulgated six months after the application; is it common for flood plain administrators to consult with the DNRC and how many counties do so as a matter of course.

Commissioner McCormick stated he has been through Mr. Hamlin's letter and also has the same questions.

Paul Spengler, Disaster and Emergency Services Coordinator and Flood Plain Administrator, added that he plans to meet with Steve Story, the Water Operations Bureau Chief of the DNRC, regarding the issues and the questions that Mr. Hamlin has raised and will be prepared to answer those at the public hearing on December 19, 2017.

PUBLIC COMMENT -

Jerry Hamlin, from Helena, as he stated in his apology letter it was not intentional to submit the information late. He had major computer problems while in California. The main thing he would like to be considered in addition to the questions is that his land is just sitting there, all the water that anyone calculates passes right through his subdivision with no problems. The problem it has is the culverts, according to the new calculations for the new formula that was developed after his submittal, makes it so that the culverts will not pass the water that they are now saying goes through his subdivision. So they are not saying the water cannot go through the subdivision; they are saying someone put culverts in that were too small to accept the flows they are now calculating. His whole point is, either there was a mistake made when the state highway went through with 512 cfs and now he is being told anything less than 1,330 cfs is unacceptable and not a realistic reasonable value. He disputes that adamantly and thinks his calculations based on the site conditions and his three expert engineers have gone to the hilt on proving that the calculations they have made are reasonable, safe, and scientifically provable. There are no specific items of recommendation, no matter what formula is used that do not have quite a bit of variance in them; these are estimates. They are claiming the estimates put forth by the USGS equations, based on Chuck Parrott and Dan Marches as well as his own experts are overstating the amount of water that comes down there. If there is in fact 1,330 cfs, then why was that same channel approved at 512 cfs for the county and state previously; so whose problem is it.

He has a good piece of property in a good area for subdivision and development that has been taken away because of either the new USGS calculation being excessive or the original mistake of telling MDT and the county it was only going to be 512 cfs; either they were wrong then or they are wrong now. If they are wrong now they are creating a huge problem for him to correct. He is not willing to correct that especially on his own and especially since it was created by someone else. His subdivision is not creating this problem. He does not understand why he would be forced to

correct something he had nothing to do with. It is bothersome that state and county agencies get approval at 512 and now he is required to design to almost three times that amount of water on the same drainage. There are three major obstructions that the water has to go through; none of which will pass the 1,330 cfs requirement. They have spent a lot of time measuring culverts, making site visits, walking the drainage with his engineers and they believe their calculations are valid.

He wants everyone to understand the county is trying to protect the public health and safety and he wants to protect the public health and safety. He would not put future homeowners at risk because of flooding. A considerable amount of money was spent hiring qualified engineers. There is a discrepancy of about 800 cfs and he believes his calculations are just as sound as the USGS calculations. He is willing to put his reputation at stake based on those engineering recommendations. They would not purposely understate the amount of cfs of water that runs through the drainage. He fails to see why 512 cfs worked last time with none of the questions he has received. The accusation he is doing something for the sake of money is false, argumentative and not necessary. He would accept why the USGS calculation is more useful than his if it could be proven, but that has not happened.

Two years and three months has been spent going back and recalculating their methodology. It is site specific, considers the soils and the obstacles. After this time no one went out there to verify whether their calculations are correct. A formula was developed which does not work on his drainage and that was proven that because there is no ground above the 6,000 foot elevation it skews the USGS calculation to the higher end and over estimates the amount of water. They have proven that in previous submittals. Chuck Parrott has worked for FEMA for 30 years; worked with the USGS equations, helped implement them and has stated they do not work and they overstate the flows on this drainage.

The only one that made a site visit is Paul Spengler, but he depends upon the DNRC and Michael Baker. Mr. Spengler is in agreement with him that there are obstructions there. He believes he has done a good job researching what the obstacles will do to the water flow.

Commissioner McCormick pointed out Mr. Hamlin's comment today is all in the November 20th document that was sent to the county.

Commissioner Good Geise stated this hearing will be continued to December 19, 2017 at that time a decision will be made.

A motion was made by Commissioner Hunthausen to table this item to December 19, 2017, leaving the public hearing open and taking all written comments prior to then. The motion was seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

Resolution 2017-155 to Create the Lorac Rural Improvement District No. 2017-13 (Planner: Matt Heimel)

Matt Heimel, Special Districts Planner, presented the resolution to create a Rural Improvement District (RID) for the preliminarily approved Lorac Subdivision in order to satisfy Condition of Approval No. 9 to maintain the internal roadways, stormwater pond and other common improvements. Costs estimates in the amount of \$600 annually were received from the applicant's engineer. Public Works reviewed the estimates adding an additional \$150 annually on the total cost for weed spraying and sign maintenance. The District will levy \$196.88 annually per benefited property. Maintenance costs may be assessed upon benefiting properties in the 2018-2019 tax year. Planning staff anticipates that a resolution to levy and assess the district will be brought before the Commission prior to September of 2018. The boundary of the district includes four single-family residential benefited lots created by the subdivision. The proposed maintenance details comply with the Subdivisions' condition of approval.

No public comment was received.

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

Final Plat. Lorac Subdivision. (Applicant: Robert S. Utick) (Planner: Matt Heime)

Matt Heime, Special Districts Planner, presented the application for final approval of the Lorac Subdivision, a preliminarily approved subdivision that will create four single-family residential lots north of Lincoln Road off of Collins Drive and Fantasy Road. Preliminary approval of the Subdivision was granted on December 8, 2016, subject to 18 conditions of approval. An update on the some of the conditions of approval: Condition 13, referencing the requirement to install certain infrastructure or improvements; there are currently no phone lines installed in the area. The subdivision regulations require the installation of phone lines; however the telecommunications company is phasing out the use of phone lines in the area.

Condition 16 regarding the necessary easement for the fire protection system is the only condition that has not been fully met. That is due to the offsite protection system being located on the Saddle Rock Subdivision, which has not achieved final plat. The Lorac Subdivision would go ahead without the easement in place.

Mr. Heime explained the fire protection system is in place and the fire chief, Mr Wally Jester approved of the system. Regarding the process for dedicating the easement, the Saddle Rock Subdivision does have a standing final plat application. There are deficiencies; once those items are brought in they can proceed with final plat to have the easement in place.

Also mentioned in the report are some items that are not technically completed, such as the filling of covenants and a shared well agreement. Mr. Utick has told him all the items are ready to be finalized.

Mr. Heime explained there is a follow-up procedure to ensure that the yet to be completed contingencies and conditions are fulfilled. An example is the covenants, to record the final plat a reference as to the location of the filed covenants is required. The procedure that the items have to be recorded in a certain sequence ensures all items are completed. The only outstanding item expected to come back to the Commission is the final plat for the Saddle Rock Subdivision.

PUBLIC COMMENT -

Robert Utick, East Helena, clarified that he has the signed covenants, ready to be recorded; the signed shared well agreement; proof that the taxes are paid in full; plus the check for \$3,912, his share of the contribution. He was told that none of this could be done until the approval of the final plat.

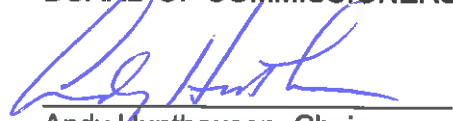
A motion to Approve was made by Commissioner Hunthausen and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

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


Adjourn

There being no further business, the meeting adjourned at 9:39 am.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Andy Hunthausen, Chair



Jim McCormick, Vice Chair

Susan Good Geise, Member

ATTEST:



Paulette DeHart, Clerk of the Board