



PUBLIC MEETING

December 10, 2019
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, December 10, 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, Nancy Everson, Nicho Hash, Peter Italiano, Greg McNally, Eric Merchant, Kevin Wright, Jennifer McBroom, James Swierc, Connie Cole, Dave Cole, Tony Prothero, Dave Brown, Lois Steinbeck, Fred Pfeiffer, Violet Pfeiffer, Valerie Jaffe, Steve Utick, Joyce Evans, Kevin Wright, and Nadine McCarty, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

There were no consent action items.

Contract Between Lewis and Clark Public Health and Patagonia Health. (Jacqueline Isaly)

Eric Merchant, Disease Control and Prevention Division Administrator, presented the contract with Patagonia Health for adoption and ongoing use of Patagonia Health electronic health records (EHR) system. The system will provide billing and patient data needs of the Health Department's immunization, communicable disease, home visiting, and WIC Nutrition programs. After a long process Patagonia Health was identified as the only provider offering a Montana specific electronic health records platform. Mr. Merchant noted the primary reason for the difficulty of finding an adequate EHR product is the majority of products and users are primary care medical facilities and public health departments have different needs. The new system will replace the current antiquated system that is no longer compatible with or supported by the IT operating systems.

The initial capital investment is \$49,230, year one monthly operating fees from there forward are \$1,550 with the first two months free for a total one year operating cost of \$63,180. Annual operating fees will increase 4% annually through the five-year term of the contract. The cost has been saved for, planned and accounted for in the FY2020 budget. The contract begins on December 5, 2019 through December 5, 2024. Staff recommends approval of the contract with Patagonia Health.

Mr. Merchant explained how the services provided by Patagonia Health are compatible with all the required systems related to immunizations, home visiting programs, infectious disease and billing.

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.

Resolution 2019-108 Delegating Authority to the Lewis and Clark County Coroner Staff to Sign Cremation Orders When Necessary. (Nancy Everson)

Nancy Everson, Chief Financial Officer, presented the resolution authorizing the Lewis and Clark County Coroner staff to sign cremation orders when necessary. This resolution addresses the cremation of abandoned bodies. And after working with the families if they refuse to sign the cremation order the Board of County Commissioners has the authority to sign and the resolution would delegate the authority for signature to the Coroner staff. The Coroner staff would sign after all reasonable attempts to work with the family have been exhausted. The funeral homes will not proceed with services unless a signed order exists. Staff recommends approval of the resolution.

Roger Baltz, Chief Administrative Officer, stated protocols and processes associated with taking action toward cremation were discussed in a meeting with the Sheriff/Coroner and the County Attorney's office. This resolution is a follow up to that meeting and there will be a set of protocols followed prior to any cremation.

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.

Proposed Grand Vista Estates Phased Major Subdivision and Variance Applications. (Applicant: U&M Enterprises, LLC) (Planner: Greg McNally)

Greg McNally, Planner III, stated there is a significant amount of paperwork associated with the project and asked for the Applicant to come forward at this time to confirm that he is in receipt of the documents and ready to proceed.

Steve Utick, 2950 Fantasy Road, Representative for U&M Enterprises, stated the project is well thought out, a good use of the land, and is not realistic to expect the land would remain undeveloped forever. They feel they have tried to maintain the rural feel with this project. The land is one of the few parcels north of the Helena Valley Irrigation District (HVID) canal that has not been developed out for residential use. The properties are outside of the HVID and not able to get water from the canal making agricultural purposes impractical. Their family has been in business in Helena since 1946 and they pride themselves on professionalism and doing what they say will be done. During the course of this subdivision request they have hired numerous professional organizations to help prepare and make recommendations for the subdivision using the best, most current available data and based upon the requirements of the Subdivision and Platting Act and the County Subdivision Regulations.

There are still many people that will state the well documented water issues in the north valley despite the fact that to date two studies have been done to document the issues. One by the Bureau of Mines & Geology that was stopped due to no issue found. The other current ongoing study is by the Lewis and Clark County Hydrogeologist and the findings thus far, are that there is no evidence that warrants a ground water control area in this area of the north valley. They feel given the current and most accurate available data there will be sufficient water for the development.

Mr. McNally presented the proposed four phase, forty lot major subdivision to be known as Grand Vista Estates. Also included are two variance requests to allow six double-fronted lots and two block lengths in excess of 1,600 feet. On Tuesday, November 19, 2019, the City/County Consolidated Planning Board held a public hearing regarding the proposal and after consideration of the staff report, the presentations by staff and the Applicant and public testimony, the Planning Board recommended approval of the two variance requests and the subdivision application based on the findings of fact and conditions of approval in the staff report. However, the Planning Board did recommend the amendment of one finding of fact and one condition of approval.

The property is located north of Lincoln Road, east of and adjacent to Collins Drive and south of and adjacent to Fantasy Road. Each of the 40 lots, with twenty-four 5 acre lots and sixteen 2.5 acre lots, will be for one single-family residence. Each lot will be served by individual wells, waste water treatment systems and utilities. Direct access to the lots will be off of an internal road network connecting off to Collins Drive and Fantasy Road.

Mr. McNally presented slides of the four phases and explained what is involved during each phase. He added the Applicant is proposing to provide fire protection at an existing offsite location on Collins Drive and is looking to upgrade the system. Should the proposed system not be able to be updated there is a contingency plan for fire protection and is an onsite fire protection source.

Mr. McNally explained in detail the two variance requests and what is involved for six double-fronted lots and the two block lengths in excess of 1,600 feet requirement. He added no concerns were received from emergency service providers about having a length of emergency turnaround on the particular blocks.

Mr. McNally noted the Helena Valley Irrigation District (HVID) canal crosses the property and in the draft conditions of approval there are provisions for a setback requirement from the canal as well as notice of the setback and some required fencing.

Commissioner Good Geise asked if there would be an opportunity for the property to petition to become part of the HVID and Mr. McNally did not have an answer in that regard. He added there is no anticipated agricultural use that would utilize the canal.

Mr. McNally noted nine letters were received prior to the Planning Board meeting with prominent concerns about water availability; impacts on existing wells; the density proposed not consistent with the growth policy; increase vehicular traffic on gravel roads; provisions for controlling weeds, dust and construction debris; impact of fire suppression withdraws on the HVID canal, accepting cash in lieu of parkland dedication; and a request to utilize additional methods for public notification of subdivision projects.

Mr. McNally stated this is the first phased subdivision since the change to the Subdivision Regulations involving phased subdivision and briefly explained phased developments. The Applicant has scheduled a plan for development of the phases after preliminary approval to complete one phase per year and may possibly change the schedule review upon approval of the Commission. The Applicant proposes to commence infrastructure plan review for all phases all at the same time.

Mr. McNally noted staff accepted the application with substantial evidence of the water availability for the project and reviewed the recommendations of James Swierc from the Water Quality Protection District (WQPD) such as notification of future property owners of the ability to be part of a well monitoring program, encouragement to test wells as drilled and regularly, well depths deep in bedrock as possible.

The Planning Board recommendation on the finding of fact amendment is that water level monitoring will, rather than should, be implemented with the initial wells to provide a baseline for measurement

should depletion occur from pumping. The condition of approval recommended amendment is that notice is hereby given that Lewis and Clark WQPD staff shall, rather than can, develop and implement a water level monitoring program for individual wells in the Grand Vista Estate Subdivision in order to monitor for potential depletion that may occur in the future.

Staff indicated to the Planning Board the proposed amendments to the conditions of approval would relate only to the restrictive covenants applicable to the future property owners. Staff further indicated the proposed amendments place a requirement upon the WQPD that the District may not be able to fulfill. When considering regulations regarding water and sanitation, the County cannot legally require more than what is already required under state law. The legal requirement carries over into the County's ability to condition a subdivision project above and beyond State requirements for water and sanitation. Staff continues to support the findings of fact and conditions of approval as originally presented in the Staff Report. Staff has informed the WQPD staff of the Planning Board's recommendation.

James Swierc, WQPD Hydrogeologist, spoke of the water level monitoring program across the east side of the north hills over the past year. The focus was on the wells monitored in the Bureau of Mines and Geology studies done in 2006 and 2012 to see the water level change between those years to present. He added the geology will always dictate the ability of an aquifer to hold water and produce water and noted the geology in this area is complex. Wells installed in clay-rich sedimentary tend to have lower yields. He added one monitored well installed in bedrock has shown no change in water levels. Mr. Swierc noted the monitored well is about 400 feet deep. He added there should be a complete draft report by the end of the year and he would like the data to be reviewed by the Bureau of Mines and Geology as well as the USGS. There will also be an internal review with the WQPD staff.

Commissioner Hunthausen asked if the additional forty new wells were contemplated in the study. Mr. Swierc noted that is a greater unknown due to not having aquifer test data showing what permeability and storage would be available within the aquifer systems in this area. It is known that wells on larger lots in the area seem to have enough water with no drawdown, but wells close to each other, depending on the pumping, could induce some sort of drawdown.

Mr. Swierc noted the water quality concern was related to the lots on the southern part near the HVID canal. The District has been monitoring a well on the southern side of the canal that is an 85 foot well, is getting recharged by the canal, but it is more permeable and close to the surface. The north part that has the same permeable soils with onsite wastewater treatment or septic systems, the drain fields will percolate into the ground water system with a potential impact from that. Mr. Swierc always recommends for the Helena area that people test for arsenic, uranium and fluoride because at times it naturally occurs exceeding drinking water standards.

Mr. Swierc gave an overall view of the aquifers across a broader band of the north valley that includes bedrock areas with pretty high yields, the areas down gradient of the irrigation canal appear to have plenty of ground water. He noted outside of the irrigation area, on the west side of the north hills, there are bedrock areas and sedimentary units.

Jennifer McBroom, Water Quality Protection District Supervisor, stated the WQPD staff is aware of the Planning Board recommendation, however they are not directed by the Planning Board. A decision will be made on how to proceed regarding the Grand Vista Estates Subdivision at the WQPD Board meeting tonight. Ms. McBroom gave an overview of the WQPD work such as the monthly well monitoring, gathering water level measurements for projects, some wells are used to monitor water quality.

Commissioner Hunthausen asked about the fire system upgrades and Mr. Utick noted the current system is a 500 gallon per minute well and they would work with the well driller and the property owner

that gave the easement for the fire protection system to get the required 750 gallons per minute. The intention is to petition to have the system moved into Chief Sheppard's Fire District.

Mr. Utick noted there are adequate easements around the drainage area for protection of the drainages and for the wildlife corridor.

Mr. Utick explained the reason for the size of the lots involved development costs, to maintain rural integrity and the purchase price of the land.

Mr. McNally noted the project is within the Rural Growth Area (RGA) in the identified Growth Policy. He explained the RGA and noted the proposed subdivision at this density is generally not compatible with the RGA. The recommended land use tools included in the growth policy are not yet complete, they are being worked on regarding density controls for the RGA.

Mr. McNally stated the review period for decision making expires on December 24, 2019.

PUBLIC COMMENT –

Fred Pfeiffer, stated his concern is having canal fencing that will keep the children away. He presented the past 20 years of moisture data from the National Oceanic and Atmospheric Administration that shows majority of the years are below average. He noted 2019 has been the wettest since 1993 and the 4th wettest since 1975. The snowfall did not go into the aquifer due to the solid frozen ground and the wind. Other concerns are more growth in the area will bring more roaming dogs and cats and the smaller lots and forty homes will not be supported by the water supply. He is opposed to the proposed subdivision as designed.

Connie Cole, 6040 Ferry Drive, stated they have enjoyed living in a rural environment for 37 years. She noted citizen initiated zoning would have ensured minimum lot sizes of 10 acres and she added they are not against development in the area. Neighboring landowners have a well justified fear that the subdivision could be a repeat of the Emerald Ridge Subdivision where unexpected depletion of the aquifer occurred. She read from the Independent Record dated March 23, 2015 regarding the said depletion and also noted the previous Community Development and Planning Director stated there is the potential for dozens of subdivisions to be in this situation if the County continues with the current policies. She suggests that the County's position, the recommended conditions of approval where the County claims complete indemnification for any costs or fees relative to water availability reflects the County has real concern regarding water issues for the subdivision.

Lois Steinbeck, 6000 Ferry Drive, stated she supports the development, but asked that changes be made to protect current and all future property owners. Ms. Steinbeck noted at the Planning Board meeting Mr. Utick volunteered to have a test well for pump testing for each phase of the subdivision and she would recommend that. Another issue is children safety regarding catching the school bus and the canal. Please keep the lots to a 10-acre minimum size. Ms. Steinbeck noted her well is 200 feet deep and they are having recharge issues. This Subdivision could cost her money if she has to drill deeper or a new well. Ms. Steinbeck thinks the estimate on payment in lieu of park land is too low.

Joyce Evans, 2276 Tea Road, added caution regarding any variances on the fire protection system as the system installed on the Saddle Rock Subdivision is inaccessible in the winter. She thinks the properties are about one and a quarter to one and a half miles from the fire hydrant. The development should be held to 10 acre parcels.

Tony Prothero, J Bar T Engineers, stated the Park Board approved the cash in lieu of park land dedication and noted the \$2,500 an acre was based on a market analysis and is on unimproved land value. The water availability they look at how much water they have access to with regards to water rights, what are area wells producing. He noted they stand with James Swierc's analysis, and are

supportive of all the WQPD recommendations. The fire water source is measured from the southwest corner of the subdivision and is within one mile, it is understood that the whole subdivision is not necessarily within a mile.

Steve Utick, 2950 Fantasy Road, noted they are open to drilling a well on each phase.

Mr. Prothero noted the project also has to go to the Sanitation Subdivisions Act review with DEQ and will include an extensive analysis to demonstrate an adequate and dependable water source.

Lindsay Morgan, Planner III, gave an overview of park land dedication, the specific formula involved and the process.

Commissioner Hunthausen suggested some type of turnout on Collins Road for school bus waiting and Ms. Morgan noted it could be required. Ms. Morgan added the fencing is designed as a deterrent.

Mr. Swierc stated aquifers are recharged by precipitation, stream/irrigation canal loss, and in the Helena Valley the USGS works showed communication between bedrock and the subsurface into the Helena Valley aquifer. Conceptual models for the North Hills is the snow melt in higher elevation areas recharges the system with the groundwater following topography. He added there can be some recharge through the base of the system as temperatures warm.

Commissioner Good Geise asked that Mr. Swierc meet with Ms. Steinbeck regarding her questions that she thought might be asked additionally in order to have that data in the future.

Ms. Morgan stated the Subdivision Regulations does not allow financial guarantees if they are a safety improvement such as the fencing. The bus route would have to be asked of the school district prior to requiring a bus stop.

A motion was made by Commissioner Hunthausen to table the item to December 17, 2019 and seconded by Commissioner Good Geise. 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 11:30 a.m.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Susan Good Geise, Chair


Andy Hunthausen, Vice Chair


Jim McCormick, Member

ATTEST:


Paulette DeHart, Clerk of the Board