



PUBLIC MEETING

February 25, 2020
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, February 25, 2020, at 9:00 AM in Commission Chambers Room 330.

Roll Call

Chair 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, Jacqueline Isaly, Peter Italiano, Nicho Hash, Charles Lane, Greg McNally, Christal Ness, Tony Prothero, Bob Utick, Steve Utick, Tom Rolf, Joyce Evans, James Ashmore, John Herrin, Becky Beard, Karl Christians, Jeane Murphy, Dave Harris, Don Humi, Mike Murphy, John Novotny, Liane Taylor, T. Zimmerman, Tyler Manning, and Nadine McCarty, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

There were no consent action items.

Task Order 20-25-5-21-012-0 Amendment Number 1 Between Lewis and Clark Public Health and Department of Public Health and Human Services. (Jacqueline Isaly)

Jacqueline Isaly, Community Health Promotion Division Administrator, presented the task order amendment to the current contract with the Montana Department of Public Health and Human Services for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) in the amount of \$27,500. The program provides nutrition, education and food benefits to low income pregnant women and families with children ages 0-5. Ms. Isaly gave an overview of the program. The grant period begins October 1, 2019 through September 30, 2020. Staff recommends approval of the task order amendment with the Montana Department of Public Health and Human Services.

Ms. Isaly explained the funding of WIC and noted when the state WIC Program distributes the contract amount they are unaware of the exact amount that will be received from the federal government. Once that is known if necessary a request for additional funds is allowed.

Ms. Isaly noted nationally, use of the WIC program is on a slow decline and she gave an overview of the state and local things being done to hopefully improve the involvement. Discussion was had on the drop off of WIC users between the ages of 1-5 and Ms. Isaly noted she did not have the exact numbers

of participants but could get them. A survey for parents of kids attending Head Start, Early Head Start, and the Ray Bjork Learning Center is underway to help identify barriers.

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.

Glen Avenue Investigation. (Christal Ness)

Christal Ness, Development Services Supervisor, presented the application and petition to close a portion of Glen Avenue, a County road. Pursuant to 7-14-2603 MCA, the Commission needs to cause an investigation to be made of the feasibility, desirability and cost of granting the prayer of the petition. Staff recommends approval of an investigation into the Glen Avenue petition and appoint the following staff to the investigation: Kevin Horne, Road and Bridge Superintendent; Christal Ness, Development Services Supervisor and one Commissioner. Ms. Ness added the property is located on the west side of Helena.

No public comment was received.

A motion was made by Commissioner Hunthausen to order an investigation on the Glen Avenue petition and appoint Kevin Horne, Road and Bridge Superintendent; Christal Ness, Development Services Supervisor, and one Commissioner, appointed by the Chair to investigate. The motion was seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

LeGrande Cannon Boulevard Investigation. (Christal Ness)

Christal Ness, Development Services Supervisor, presented the application and petition to relocate the gate on the east side of LeGrande Cannon Boulevard approximately 200 yards down the road to the west and an investigation needs to be ordered. Staff recommends the approval of an investigation into the La Grande Cannon Boulevard petition and appoint the following staff to the investigation: Kevin Horne, Road and Bridge Superintendent; Christal Ness, Development Services Supervisor, and one Commissioner. Ms. Ness noted because the City of Helena owns property located there they will receive notice as an abutter.

No public comment was received.

A motion was made by Commissioner Hunthausen to order an investigation into the LeGrande Cannon Boulevard petition and appoint Kevin Horne, Road and Bridge Superintendent; Christal Ness, Development Services Supervisor, and one Commissioner, appointed by the Chair to investigate. The motion was seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

Commissioner Good Geise stated the Chair appoints Commissioner McCormick

Public Hearing Regarding the Commencement of Grand Vista Estates, Phases I-IV, a Phased Major Subdivision. (Tabled 2-18-20) (Applicant: U&M Enterprises, LLC) (Planner: Greg McNally)

Greg McNally, Planner III, presented the project that was tabled on February 18, 2020. The project is located north of Lincoln Road adjacent to Collins Drive and south of Fantasy Road and is a phased subdivision that was given preliminary approval on December 17, 2019. In compliance with the regulations regarding phased developments the applicant provided a letter to the county that indicates they plan to commence with the infrastructure plan review for the public infrastructure for the subdivision required through the conditions of approval. In accordance with the regulations this affords the opportunity of a public hearing at which time the conditions of approval can be reviewed and the existing situation to determine if anything has changed, if there is any new information that could result in additional findings of fact or the need for additional needs of approval. Staff indicates the existing conditions of approval and the

existing findings of fact are sufficient for the continuation of the project. However, staff recommends one additional finding regarding the approval period for the project and one amendment to the existing condition of approval for the time frame for its preliminary approval. The condition would put into place the Applicant's intended schedule for the development of the four phases: to complete Phase 1 within one calendar year of preliminary approval, Phase 2 within the second calendar year, Phase 3 within the third calendar year and Phase 4 within the fourth calendar year. The condition of approval is proposed to be amended to reflect that schedule. If the Applicant would request to change the schedule a meeting before the Commission would need to occur for review. The project is a 40 lot subdivision on 160 acres with 10 lots in each phase. Mr. McNally noted he received further comment and provided them to the Applicant with physical copies for the Commission.

Mr. McNally stated the amendment would delineate the expectation of the applicant to complete a phase within one year of preliminary approval.

Steve Utick, 2950 Fantasy Road, the Applicant, stated he has received all mentioned documents.

No public comment was received.

Commissioner Good Geise stated the public hearing is now closed.

Mr. Utick addressed a couple of items brought up by Mr. Pfeiffer commenting on the fact of the fairly decent well on the property and he noted he has never said that they had a well on the property prior to the well that was drilled on January 21st as part of what they told the Commission they were willing to do to prove water availability in each phase. It was also commented that power was recently hooked up to the house so there is no way they could have tested the existing well. Mr. Utick presented copies of a NorthWestern Energy bill that and noted the power was hooked up to the house June 12, 2018. The power truck seen last week was not at their request. He corrected his comment made regarding the static water level being 130 to 140 feet, the official well log showed it at 109 feet with the total depth at 277 feet. The well log is also on the GWIC website and he brought copies of the log. Another issue that has come up is the accusation of preferential treatment they receive because of the property taxes they pay in the county. He takes offense to that, noting their family has been in business since 1946 and are bound by all the statutes and state laws.

Bob Utick, responded to the accusations made that they have lied to the Commission and he guarantees they are not lying. They are being slandered and they can prove everything that has been said in writing.

A motion was made by Commissioner Hunthausen to accept the Supplemental Finding of Fact as recommended by the Community Development and Planning Department staff and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

Mr. McNally read the Finding of Fact that stated the Applicant provided a schedule for the completion of each phase of development with the subdivision application and has reiterated that schedule in his letter of commencement. The schedule is subject to change at the request of the Applicant, its successors and assigns, with approval of the Commission after a public hearing is held in accordance with Chapter IV.B.2.c of the Subdivision Regulations provided the schedule change does not negate conditions of approval or otherwise adversely affect public health, safety, and welfare. The schedule for completion of each phase ought to be updated and documented in the conditions of approval.

Commissioner Good Geise stated there is a motion and a second. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Hunthausen to adopt a conclusion that the proposed Grand Vista Estates, Phase I-V can comply with the Subdivision Regulations if the recommended condition of approval is addressed by the Applicant and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Hunthausen adopt the condition of approval as recommended by the Community Development and Planning staff as presented, both the findings and the conclusions as well as the amended condition of approval. The motion was seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

Mr. McNally noted this is a supplemental approval and an additional condition and finding related to the existing preliminary approval that was already issued in December, 2019 and all of those conditions of approval and findings of fact from the previous approval continue to stand. A letter will be drafted reflecting the actions today for signature and will be provided to the Applicant.

Update and Discussion Regarding County Initiated Zoning (Part II) for the Helena Valley Planning Area. (Peter Italiano)

Peter Italiano, Community Development and Planning Director, introduced Chris Kranich with the Community Development and Planning Department and explained she will be taking notes of the public testimony that will be displayed live on the smartboard. This allows Planning to keep close track of the comments and ensure they are all captured.

He presented the County-Initiated Part 2 Zoning and noted the presented map represents the image of the Helena Valley Planning Area that is in the 2015 Growth Policy. There are several different growth policies, one being the 2004 County-wide Growth Policy, the 2015 Helena Valley Planning Area Growth Policy and he will be speaking of the 2015 policy. Mr. Italiano stated it is critical to continue dialogue with the public. There has been some confusion and misinformation going around and he wants to make it clear what has occurred at this point has gone beyond what is required per state statute. It requires public hearings before the Commissioners and does not require public hearings before the Planning Board, nor the type of listening sessions that have occurred. The outreach has been all over social media, the county website, there are have been press releases and flyers.

Mr. Italiano presented slides on the process of Part 2 Zoning noting how it goes back and forth and how the feedback arrows demonstrates public outreach and listening. The feedback is what the county uses to form the process. When growth management challenges are identified it usually results in policy and regulatory framework adoptions. The growth policy is a strategic tool, whereas subdivision and zoning are tactical tools and are to implement the citizens' visions that were identified in the 2015 Growth Policy. They are now at the point of looking at adoption of zoning for the valley and if the Commission chooses to adopt zoning the next step would be evaluating the regulations and the implementation, making adjustments as they go. That would provide for more public feedback and through that challenges in future would be identified. Mr. Italiano explained the cycle specific to zoning and statute noting the emphasis of the relationship between the Commission and the Consolidated City & County Planning Board. MCA 76-1-106 identifies the process by which planning boards are created. 76-1-602 speaks of the public hearing process with newspaper publication requirements where the planning boards can adopt growth policies. Through that process we get to where we are today where the Commission initiates Part 2 Zoning process and it needs to be consistent with the growth policy. The purpose of the meeting is to ask Commissioners to give direction to the Consolidated City & County Planning Board to move forward and begin the process formally. Mr. Italiano noted the third slide speaks of issues that arise be it through the public, internally through staff, or the development community that ultimately leads to a dialogue that results in a growth policy or growth plan. They are continually looking for feedback from the public.

Mr. Italiano stated zoning brings a level of predictability and eliminates surprises from a land use stand point. The zoning needs to implement the growth policy and the map will be the tool that shows the different areas within the valley and how those areas are interrelated to one another relative to zoning. The areas that have higher property values, are more desirable tend to see a higher level of imposed regulation. The citizens spoke loudly in 2015 and gave a lot of clear direction on how they thought growth should occur in the valley. The goal is to make the zoning regulations flexible and work for

everyone. The opportunities for flexibility are: a process in the document to allow folks to request a re-zoning, contemplating the concept of having a Planned Unit Development process, looking at the conditional use permit process, a variance process to deal with hardships, all tools that allow for flexibility. Contained in the document would be principal uses defined an example is the main use of a site such as store for commercial or a home for residential; accessory uses defined that are things such as a barn, guest house. The conditional use permit (CUP) process because of their special nature might only be suitable in certain locations or developed in a particular matter such as mining. The CUP process would also result in the issuance of a permit, and that process would give the public opportunity to engage in the dialogue. The Planned Development Process (PD) or Planned Unit Development (PUD) are fairly complex. Mr. Italiano explained the difference between the two.

Mr. Italiano reviewed the most recent preliminary draft zoning map and discussed the colors on the map noting the lighter green, the 160 acre AG conservation area, more less to the east side of the map and the dark green more less to the west side of the map and discussed the difference between the two with the light green being wholly private property, and the dark green areas intended to be wholly public property. Some of the partner agencies requested that be looked at. The map also incorporates the six changes on the February 4th map that had six changes identifying distinct areas where the light green was reduced and replaced with the pink color. Based on the growth policy relative to roads and the Wildland Urban Interface (WUI) they are looking at moving towards a mix of 10 or 20 acre density areas and based on public feedback moving away from the 160 AG conservation area. He added they are still looking at trying to get in front of the Planning Board April 21st and back in front of the Commission this summer.

Commissioner Hunthausen noted the formal process has not started yet. There have been four public information meetings and two with the Commission for information prior to the required state process. Mr. Italiano gave an overview of the public listening sessions that have been held, in addition to almost 20 meetings with partner agencies such as Helena Chamber of Commerce, Helena area realtors, DEQ, DNRC, MDT, and NorthWestern Energy and have received feedback from some of those agencies. The official process will not start unless a motion is adopted by the Commission.

Roger Baltz, Chief Administrative Officer, stated first meeting was held with the Helena Chamber Board of Directors in March, 2019, April 16th met with the Realtors Association, October 25th with Helena Building Industry Association (HBIA), and the community outreach informational meetings. He added the maps are preliminary drafts, concepts, and works in progress subject to change depending on input received.

Commissioner Good Geise explained the ways issue emergence would have looked to the county if there was a state of Part 1 Zoning requests of people that wanted their area zoned because they felt a perceived threat. A number of these Part 1 Zoning issues have come up recurring times. Then the county began looking at key issues that were facing residents that lived in the valley. The growth plan comes from the Montana Code Annotated and it tasks the planning boards with helping develop these growth plans. She added anything that happens from the growth plan has been the result of years of outreach with the multiple public meetings that included input from realtors, homebuilders, engineers, and road people as to what the growth plan would look like. It was a very expensive and time consuming process with robust participation and when the document was finally ready for the Commission to review the first to voice in favor of was the HBIA and the Helena Association of Realtors. The growth plan talks about the densities some which are discussed in the proposed zoning. Today the discussion is do they want to send this to the Planning Board to work with the Planning Department and come up with proposed maps and regulations, then the Commission will make a decision whether to move forward with zoning or not, assuming that occurred the zoning regulations, maps would be put into the implementation phase and after implemented then future commissions will evaluate how this is working, where it is and is not working. The statements of there has not been opportunity for public participation is not correct.

PUBLIC COMMENT -

Karl Christians, Landowner in the valley and Farm Bureau President, and stated he spent 30 years working for state government with 16 of those in regulatory program. He noted the public process and the MCAs are a minimum. The public meetings and outreach are appreciated, but the one thing missing was direct contact with the directly affected landowners. The public information meetings were lacking with questions not answered and information provided. Zoning does not stabilize property values. He is going off the old map as he has not been able to find the new map online. If it was zoned as proposed on the old map the property values would be cut in half because it is an unfunded conservation easement and what can be done would be limited. Peter mentioned principle, accessory, and conditional use that is the County telling landowners what they can do with their property and it does not protect their property rights. It would have been great to have a copy of the new map. Mr. Christians stated he spoke with an AG lender that informed him when they finance property and a conservation easement is bought by someone paid to that landowner the lender looks at the value of that land and cuts the value in half because of the limitations. He asked that be taken into consideration as farming and ranching is expensive and they need the land value to keep them sustainable. Mr. Christians noted he will also submit an updated letter.

Dave Harris, 4497 Speed Horse Drive, lives south of Lake Helena with 160 acres, stated the idea of having the 160 acres as the minimum reduces the property value, reduces opportunities for the ground and he knows the only way to run it as an agricultural operation is he works fulltime with farming on the side. Removing the potential of selling a 20 acre parcel to augment that is excessive on the size of the property. When he purchased the property he had every right to use the property as seen fit. Currently water is easy to get with a high water table, it can be farmed, but over development could not occur due to excessive ground water.

Becky Beard, Representative of House District 80, resides in Elliston, but the majority of her district lies in the northwest Helena Valley. She added she has received numerous phone calls that prompted her to request the growth policy for review. She realized the policy is a guide with regards to zoning. Representative Beard gave an overview of her previous consulting experience with planning, zoning and growth policy in her areas. The Montana Code states in order to hold a public hearing the newspaper of general distribution needs to be contacted to place ads in the newspaper, however, in today's world newspaper circulation has declined dramatically. She would use census designated places and obtain the mailing list through the census and economic information center for the affected boundaries for things that were going to occur, it was found to be helpful. She appreciates that it was said this is not a done deal and that should alleviate a lot of concerns. Residents need to take the responsibility and stay involved. It goes both ways and it can be made a lot less contentious if the extra mile is gone to get people invited to these meetings.

Mike Murphy, Wolf Creek, stated the MCA already does provide protection from a property rights perspective and the standpoint of water quality, water rights as well as sanitation and other perspectives. This as originally presented represents an extremely different proposal or presentation than a citizen initiated zoning process and in his mind is an unconstitutional government taking of private property rights and government control to the extent. A taking without just compensation. Whether you enjoy open spaces or not any citizen in the state and the county should be concerned about what is being looked at here in regards as to how this would impact private property rights. He thinks depending on what direction this takes from the statewide perception more involvement will be seen from statewide AG organizations. Given the implications as presented, the 160 acre limitations, he suspects there will be legal processes that will not only involve tax payer dollars but also those of the affected property owners. He encouraged the Commission to take a hard look at the issue and how it impacts private property rights.

John Novotny, 4494 Speed Horse Drive, stated he feels the local government should be their locals not their government. Ranching is his only source of income. One of his concerns is government taking control. He believes it is going to be a beating of the landowners in the valley. His property is entirely in

the green zone. He purchased some property a couple of years ago and paid way more than agriculture value. He had been leasing it for a long time because the owners knew of the developmental potential. If this is zoned, a conservation easement is put on it and he did not get any compensation he will probably have to pay about \$200,000. That would mean he would have to either sell his cattle or the property at a loss. He spoke to about 90% of the AG people in the green zone with not one in favor of the zoning. There are multiple subdivisions in the valley and people move out there to enjoy the agricultural life around them, but now you want me to provide that for you for the rest of my life. The ranch is his only source of retirement and if the value of that is taken away he should be compensated. The Gehring ranch received over a \$1 million from the County for a conservation easement and he asked if that will be done for those that will be restricted to agricultural use only. The possibility of being able to ask for re-zoning sound likes a lot of time and money to get accomplished. When it is presented that this is a tactical way to handle the growth that sounds like government control. This will destroy agriculture in the valley as it will diminish their ability to borrow money and many ranchers live on borrowed money. He is not opposed to planning and thinks growth planning should be done, but he asked for this process to be stopped. Planning is not expensive, but this is going to cost the county millions of dollars due to the lawsuits. The state law covers the subdivisions that are done today and they plan for roads, water, sewer, but this will be detrimental to this county.

Liane Taylor, 3420 Brookdale, asked about the new 160 acres, the dark green area and it sounds like there is the thought of taking away the light green areas. She would like to know if that will also take away the dark green 160 acres. Commissioner Good Geise informed her there will be a lot of comment and the answer will probably be in the comments.

Jim Ashmore, 6460 Birdseye Road, stated relating to the communication and getting information out that not everyone has technology communication in their homes. That needs to be considered. He also thinks clarification is needed on the website. It has a lot of information, but there is a lot of dead information in about four or five places that say information, minutes, maps, etc. and there is nothing there, it is difficult to find as everything is many layers down. He suggested if it is a current issue put it on top with a link and take off anything that is posted that does not have information.

John Herrin, 2855 Sundown Road, discussed the thirteen pages he presented to the Commission on February 24th noting it was technical information based on the five key elements that the county is worried are failing and not protected by the cumulative growth issues. Those being flood, fire, water quality, wastewater and roads. He believes the County's existing proposal of a 10, 20, and 160 acres is not supported by the rural analysis. He thinks there are three major problems: 1) the only information provided by the County on this huge takings issue is the very simplistic trifold document that does not even discuss lot size densities. It discusses generic traditional zoning, form, mixed use, and performance-based topics. This will probably go to court and the County's defense is this covers all the technical information that will support the 10, 20, 160 acre tracts and it does not give the public anything, but his thirteen page discussion provides the necessary information and notes roads are protected and being improved by new subdivisions. The plan is not supported by the road issue and it is not supported by water quality. He reviewed the old hydrology reports and wishes they could take the time to go through them. They say even in the worse place, along the North Hills fault zone the density could be at 3.2 acres and still not cause a water loss. He looked at Scratch Gravel Hills and the North Hills ground water studies and it looks like 1 to 2 acres is about as low as you can go and do something on lot size densities without additional studies. He added the five key points are covered adequately in the Subdivision Regulations and to say otherwise is wrong. The County is taking all the investment in the zoning on issues that are not really there and a crisis has not be shown. The County needs a technical document that shows how 10, 20, 160 acres solves the problems. The adopted growth policy is very generic and as Commissioner Good Geise noted it is not a technical document. He will give the Commission a discussion of the legal merits, problems and failings that the County faces. A social economic analysis needs to be conducted. This plan will severely depress rural property and enrich the sweet zone property and is a takings issue. There cannot be a map that is always evolving. The citizens

should have been involved from the beginning and built it from the ground up with a technical and legal basis. Two-thirds of the growth is being crammed into one-third of the area about 10,000 acres that takes 150,000 acres out of the equation and it will have a large impact on builders. The realtors have already lost sales and the County could be liable for that loss. He thinks it looks like MACo might not be the insurance underwriter and this could put it on the taxpayers. It will drive up affordable housing.

Commissioner McCormick stated the county-wide growth policy developed in 2004 began the discussion about Helena Valley wide growth policies. The goal has been to develop a growth management plan that meets the needs and goals of the citizens of the Helena Valley and the public input received during the development of the policy. The work done by the constituent groups that worked to develop the 2015 growth policy, remains valid today with some dated statistics as things change. The policy can be found online and many of the questions and comments heard today are answered in that document. He pointed out the improved performance standards that are necessary for balanced and equitable opportunities, noting there are 34 or 35 existing Part 1 Zoning Districts with 53 different designations and each has a different set of administrative standards, organizational structures, definitions of views, lot sizes, setbacks, and different permitted and conditional uses. Some are over 40 years old with no updates for decades. He quoted the best description of the Helena Valley is chaos.

Many times the Commission has heard disagreements on the rules that those Part 1 zones have created. The Commission is not a court and hopefully bringing some form of predictability can be brought to the valley. The Helena Valley Planning area contains 95% of the county population and has experienced 98% of its development over the past decades. The expectation is an increase of about 10,000 people and 4,000 structures over the next 1 to 5 years.

Commissioner McCormick noted everyone is a stakeholder and went over some of the stakeholder's goals: groundwater protection, incentives for development, similar and compatible development standards, affordable extensions of city services where it makes the most sense, equitable distribution and allocation of cost. There are large gaps in some cases where there is the general taxpayers' tax bill for building and the maintenance of public infrastructure, but there is also the proportionate share that the developments share. It is not comprehensive because development is scattered across the valley and there are issues the Commission has to deal with all the time. He continued reviewing the goals listed such as predictable zoning options and a guide to development using sound principles, provided by subject matter experts that provided their input for these documents. He discussed public investment and infrastructure applied in two scenarios targeting infrastructure improvements to solve existing problems, it often comes about due to the lack of community planning resulting in wide-spread failures. Commissioner McCormick noted they have to look at the future and find solutions to potential problems today. He noted crisis costs a lot of money and there will be people that disagree on how to manage the crisis. The Commission makes the best decisions possible given the information that is at hand, they depend on subject matter experts to provide that information and it is done to protect the taxpayers. The second scenario is where the community plans ahead and invests in infrastructure for areas where growth is expected and desired. An example is the 2005 North Helena Valley Infrastructure Study that specifically addressed roads, water, and sewer facilities that could support future high density growth. Fifteen years ago the public investment necessary to implement was in the 10s of millions of dollars. The County is trying to build something that is predictable so when the property is developed there is something that can be depended on for the current and future development. Commissioner McCormick continued to read excerpts from the growth policy focusing on a combination of options that can be considered and noted if zoning is used to address constraints, subdivision regulations can be amended to lessen requirements in rural areas and make it easier and cheaper to do low density subdivisions, combining public education to the point notifying people, bringing everyone into the discussion, combining public education, improve regulations, and public funding to address water supply, fire protection, and help the County respond to these concerns. In the end it maybe that a combination of targeted public investments, zoning, better performance and public education are all necessary to address growth pressures within the Helena Valley Planning Area.

Commissioner Good Geise stated again the Commission's job is to protect the public interest and everyone has equal property rights under the law. As we move through the process the County Attorney's office will ensure everyone's property rights are honored and upheld, but no one has special property rights. She added some of the facts presented today are not actual facts and she would like to balance a person's right to be able to speak with somewhat of a right to privacy even though they have made some mistake in assertions on the public record. She added she now thinks moving forward with 160 acres was a big mistake. They clearly heard people are opposed to that. She was trying to honor the AG heritage that has created much of the wonderful consequences of living in the community. She supported the 160 acres because she wanted the community as a whole to tip their hats to those that make their living in agriculture and wanted to show respect, but she noted she did it in the wrong way and apologized for the upset she caused.

Commissioner Good Geise noted the Part 2 Zoning that was implemented near Ft. Harrison had over 10 public meetings with many hours of public testimony heard, many of which were the same concerns heard today and when she asked this week, 53 weeks later, about the effects of the zoning on the people that are in that area no one voiced a concern. Thirteen counties in the state currently use zoning and have survived challenge after challenge. The assertions of takings is used by many without a clear understanding of what it means. The Commission will follow the legal advice of their legal staff.

Commissioner Good Geise discussed the five key points: water, fire protection, roads, wastewater, and floods. Time and again the Commission has heard from people interested in Part 1 Zoning about water availability with study after study asserting different things and roads continue to be a big challenge. She found out from discussions with fire chiefs the current fire suppression apparatus and number of volunteers will not support the 4,000 housing units and 10,000 additional residents that is expected in the valley.

Commissioner Hunthausen stated he was informed that staff went above and beyond state law with almost twenty meetings with invitee groups, they have used the paper, TV and radio, signs and flyers, four publically advertised meetings in the valley and two here, social media. The comments are appreciated and they will consider communication suggestions. There is also a responsibility of the citizens to stay informed. The preliminary meetings were to get the public engaged the best they could and the formal process has not begun. When it begins the state law will guide them regarding informing the public. There has been discussion regarding zoning since he took office in 2006 and it was realized the amount of work it would entail prior to getting to any type of zoning proposal. By 2015 the public was informed of their thoughts and the growth policy was re-written and representatives from the Helena Realtors Association and HBIA supported the plan going forward. There was no hiding in the document that the next step was trying to implement planning and management tools to meet the goals in the plan. He added the legality of zoning is used all over this country and the world.

Nicho Hash, Deputy County Attorney, stated that state law allows for counties to implement Part 2 Zoning and added when counties follow the regulations, processes that are in place and the statutes about what is to be considered by both boards, that process is generally legally acceptable and durable.

Mr. McNally stated the suggestion to limit density in the Helena Valley Area Growth Plan is a response to reduce the impacts of growth key issues in the RGA, particularly water, roads and fire. Density limitation is suggested as a means to still allow some growth albeit at a more predictable level and at a density these would not be intensified at an unsustainable rate and in short we ought to be able to better plan for the future infrastructure needs with density zoning in place and the community ought to be able to expect and rely on the County to support rural low density development at those levels.

Commissioner Hunthausen stated the growth policy talks about putting management tools in place regarding fire issues related to the WUI. The more density there is with substandard roads and fire

protection the more risk involved. There is the potential to have fire situations that occurred in Paradise, California, Colorado and Australia.

He added there is another element that property values can be sustained by zoning as it provides predictability for buyers to have a complete understanding of what could occur around the property prior to purchase. Commissioner Hunthausen stated they are supposed to have a growth policy, to be planning and anticipating what is going to happen in the valley and something has to be put in place that helps to realize the completed planning and includes the community. He added already there have been adjustments to the map and ideas, such as the 160 acres being not workable and that it does not necessarily protect agriculture. Part 2 Zoning can maintain and conserve existing neighborhoods and it helps prevent the mix of incompatible uses, it can protect environmentally sensitive or recreational areas. Something has to be done and it is being done the correct way. The accusations that the County is bulldozing over them is not accurate it has taken a decade to get to this point and all comments will be considered.

A motion was made by Commissioner Hunthausen to take all of the public comment heard from all of the individual and public meetings, all of the Commission comments, all of the records to move them forward and ask the Consolidated City and County Planning Board to initiate their process on April 21, 2020 to recommend to this Board both the boundaries and appropriate regulations for County-initiated Zoning consistent with the Lewis and Clark County Growth Policy and state statutes. The motion was 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 12:01 pm.

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