



PUBLIC MEETING

February 27, 2020
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, February 27, 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, Peter Italiano, Charles Lane, Christal Ness, Kevin Wright, Audra Zacherl, Jill Steeley, Marina Kuntz, Brian Coplin, and Nadine McCarty, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

- a. Resolution 2020-9 Declaring County Property Surplus Property. (Amy Reeves)
- b. Resolution 2020-10 Declaring County Property Surplus Property. (Amy Reeves)

Roger Baltz 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 Hunthausen and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

Detention Center Renovation Update. (Audra Zacherl)

Audra Zacherl, Public Works Assistant Director, gave an update on the Detention Center renovation to include: installation of the electrical conduit runs for the main level fire alarm and security electronics; completion of overhead rough-in on the lower level; installation of new duct work in the ceilings in all areas; drywall taping and texturing took place; Trusswall panel installation began; and security doors were hung.

Ceiling installation was delayed waiting for the fire sprinkler plan to be reviewed by a third party for the City of Helena. The City received the plans back on January 23rd and was able to issue the permit the same day. Sprinkler piping installation began immediately and the lower level has been completed and

approved by the Helena Fire Marshall. Piping on the main level is expected to be completed by February 28th. Sletten will now move forward with ceiling installation. This delay moved the transition of inmates from the upper floor down to the newly renovated space, scheduled for April, now pushed to May. The transition will be done in two phases to enable the upper floor to undergo minor renovations that include splitting the exercise area in two, renovate the visitation area, minor changes to two pods, and plumbing and security upgrades. Construction was expected to continue through August and the delay pushed that date to September 11th. Renovations will transform all three floors of the Law Enforcement Center into detention space with a minimum of 156 beds. Funding for the Detention Center Renovation is from the voter approved \$6.5 million general obligation bond, with additional funding being provided from capital savings, bond premium and bond interest for an initial total project budget of \$8.4 million.

Two scope changes will be added to the project, one for ADA parking between the Detention Center and the Courthouse; the other for the replacement of the uninterruptible power supply (UPS) that services the state radio room. Both items have separate funding sources identified separate from the bond funding.

Expenditures to date total \$3,641,070 with: architecture at \$564,233; Owner's rep at \$331,011; Sletten Construction at \$2,531,106; and miscellaneous at \$214,720, that includes testing, builder's risk, electric reroute, and bond-related expenses.

Ms. Zacherl stated this is a GCCM with a guaranteed maximum price contract, meaning the project has to be delivered for a set dollar amount and kind of has a built-in penalty if they make the project last too long. She added that both the contractor and Public Works are fine with it.

Commissioner Hunthausen asked for a more detail on the minor renovations to the top level at the next update.

Ms. Zacherl provided a slide presentation of the updates.

No public comment was received.

Grant Application to the Department of Justice. (Kevin Wright)

Kevin Wright, Sheriff Department Patrol Captain, presented the grant application to the Department of Justice for the COPS Hiring Program in the amount of \$125,000. The funds will partially fund a new entry-level deputy to be utilized as a school resource officer, commonly known as an SRO. The grant period is October 1, 2020 through September 30, 2023. The remaining funding will come from the Sheriff's Office budget. Currently there is not a fulltime SRO and the need has been recognized with the addition of the East Helena High School and other high schools in the County. Captain Wright gave an overview of the current deputies that serve some time as an SRO, including the D.A.R.E officer. Staff recommends approval of the grant application submittal to the Department of Justice.

Captain Wright explained the specific SRO position and the involved training. The focus will be on the new East Helena High School with training of other deputies and eventually a rotation schedule between schools.

No public comment was received.

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

Recommendations for a Court Ordered Land Division. (Christal Ness)

Christal Ness, Development Services Supervisor, presented recommendations for comments on a Court Ordered Land Division. Pursuant to statute the Commission has the ability to make a comment to the court. The property is located at Holter Lake, specifically the 20 acre parcel located on the west

side that was created by a subdivision exemption, namely a boundary line relocation. Ms. Ness provided slides to show the exact location, the location of the Bureau of Land Management (BLM) campground and boat docks, the house built on the property, BLM parking lot, loop in Beartooth Road, the two-track access roads on the steep and rugged property. Ms. Ness showed all the pieces of land owned by the Plaintiff Ms. Barton that are located around the 20 acre parcel. The litigants filed a Joint Motion for Order to Divide Land, requesting the Court to divide the 20.38 acres parcel into two parcels, of approximately 11.69 acres and 8.69 acres.

A number of exemptions have been used on the property. There was a court ordered division that was part of a probate from Ms. Barton's family and was divided into several pieces with Ms. Barton retaining the large parcel, approximately 331 acres located in the middle. By statute a perimeter description of a particular piece of property does not affect what could be underlying parcels. There are 7 underlying patent parcels that were delineated by Ms. Barton's survey as existing parcels. When she inherited the property it was a perimeter boundary of the 331 acre parcel. By statute the parcels have to be affirmatively aggregated in order for them to be extinguished and aggregated as to one parcel. After receipt of the property Ms. Barton deeded a parcel to the BLM for overflow parking for the campground and boat docks. At that time there was debate and discussion because it was believed that the parcel was created in violation of subdivision review and individuals cannot create parcels without it or using some sort of exemption. This was created by a recorded deed, at the time of creation there were other available parcels that a boundary line relocation could have occurred to create that parcel without by deed. Ms. Ness gave an overview of the rearranging of the created parcels with boundary line relocations demonstrated on the slides as well as court ordered division survey. The gentleman purchased the 20 acres from Ms. Barton at a reduced rate because he had a contract to purchase the large piece that surrounded these pieces. The contract fell through, she sued him to get back the fair market difference of the 20 acres and after mediation this is the result of the settlement agreement.

Ms. Ness read excerpts from Ms. Barton's brief regarding the settlement reached at mediation noting: that the settlement calls for a portion of the 20 acres be returned to Ms. Barton and to accomplish said return the parties agree the parcel will be divided into two parcels and Ms. Barton should get back 8 acres. By statute the County has the ability to ascertain whether or not the court ordered division is in fact an evasion of the Subdivision and Platting Act. Ms. Barton can have the 8 acres, but Ms. Ness does not believe she should get an additional parcel that she could sell in a steep and rugged location on a two-track road. Ms. Ness continued reading the closing of the brief discussing the area around Holter Lake being where it notes the creation of the 8.65 acre parcel, of that parcel would be entirely consistent with the dominate property use in the area with most of the cabin site properties smaller than those parcels and sizes should not be a concern. There are now 8 parcels owned by Ms. Barton that have never gone through subdivision review. Emergency services will have a difficult time reaching any of the parcels. The charge of the County is to ensure they are not evading the Subdivision & Platting Act by creating an additional parcel. Staff recommends letting them have what they agreed to, but make Ms. Barton aggregate the 8 acres into her larger parcel.

Commissioner Hunthausen asked by the history of the property and many more lots that exist than when the property was acquired that there is an argument that this has been subdivided without subdivision review and the impacts on emergency services. A clear comment is necessary that it looks like it could be evasion and the County does not want the trend to continue.

Ms. Ness stated had this gone through subdivision review there would be seen improvements, especially to the roads that do not meet any sort of a standard. There is not even a proper ingress/egress with two vehicles at the same time. The steepness of the land would not allow for a loaded fire truck to get to the property. She added once comments and recommendations are received from the Commission, staff will draft the letter to the Court with those recommendations.

Commissioner McCormick asked about the deed and transfer of property to BLM for a parking lot and Ms. Ness noted the deed was recorded in 2010. Ms. Ness added the first irregularity was the original court order division and gave sequence of what occurred: another court ordered division that gave her the property; the creation of the BLM parking lot without subdivision review; the survey that delineates all of the patent parcels; manipulation of the boundaries begins to make different parcels, but she never exceeds the number of parcels that she had from the beginning. This division would give her an additional parcel besides what she inherited and would be able to be sold. Further discussion was had on whether all of this operates autonomously from any subdivision review, unless there is an application for subdivision. Ms. Ness explained the survey review committee tries to look at how many exemptions have been utilized on the property and have they been properly used. This is the third court order division that affects the overall 331 acre property, besides the boundary line relocations, a number of exemptions have been utilized that include the BLM parcel, clearly an evasion; and now the attempt to get this parcel to possibly sell.

Charles Lane, Deputy County Attorney, stated they have begun a new process, for court ordered divisions when it comes to the County they send it through the Planning Department initially and that is the step they have gone through.

The Commissioners discussed the confusion they are having over this issue and that more review time would be necessary. The decision before the Commission is whether to provide recommendations to the court for the court ordered division of the 20 acres.

Mr. Lane noted the court is looking for comments regarding what are the repercussions from subdividing the land without the subdivision review process that would look at the roads, fire, water and it looks like the court ordered division would not address those concerns. There will be concerns with adding an additional parcel. The larger question that the County is tasked, under state law, is determining if is this an attempted use of exemption to avoid the subdivision review process and that would require review of the history, the past court ordered divisions, manipulation of the boundaries are relevant.

Ms. Ness stated the history provides with the fact that the particular plaintiff in this litigation owns all of the land surrounding the 20 acre parcel, so clearly the court could reduce the 20 acre parcel down to the 12 acres and the 8 acres being absorbed into the larger parcel that she currently owns.

Ms. Ness stated an onsite septic system is nonexistent at the house location with a notice of violation. The person that built the house applied for a septic permit, but never picked it up nor paid the associated fees and penalties for beginning construction without the permit. His actions have caused him to lose his certified installer status with the County Environmental Health Department. Staff recommended the court include in their order to rectify the situation with the department.

No public comment was received.

A motion was made by Commissioner McCormick to table the item to March 12, 2020 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.

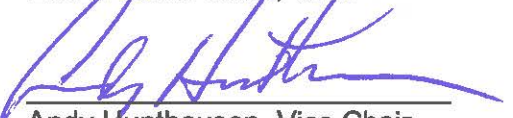
Adjourn

There being no further business, the meeting adjourned at 10:10 am.

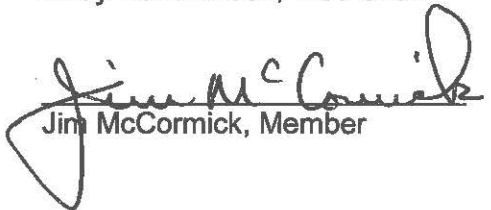
LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Susan Good Geise, Chair



Andy Hunthausen, Vice Chair



Jim McCormick, Member

ATTEST:



Paulette DeHart, Clerk of the Board