



PUBLIC MEETING

April 11, 2019
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, April 11, 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, Nicho Hash, Jacqueline Isaly, Peter Italiano, Jennifer McBroom, Lindsay Morgan, Sam Neill, Spencer Starke, Theresa Taylor, Charles Taylor, Gary Bertellotti, Vicki Robinson, Brad McBratney, Daniel Barrett, Brady Murphy, Brent Lonner, Hoyt Richards, Steve Platt, Willa McArdle, Mike Mueller, Ashley Pena-Larsen, Michael Munoz, Joe Cohenour, Will Trimbath, Rod Bullis, Liz Burke, Jeni Garcin, Kevin Wright, and Nadine McCarty, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

There were no consent action items.

Youth Forest Monitoring Program Presentation. (Debbie Anderson)

Liz Burke, Program Manager of the Helena-Lewis and Clark National Forest, gave an overview of the Youth Forest Monitoring Program (YFMP).

Students from the YFMP gave a presentation on their processes, findings, and recommendations from three different sites they visited during the monitoring and research of noxious weeds during the summer of 2018. The weeds they focused on were spotted nap weed, dalmatian toadflax, weepy spurge, houndstongue, oxeye daisies, and canada thistle. The students noted they were the first YFMP team to use the app and computer program EDDmaps West, a program that allows photos to be taken and uploaded to a national database.

Ms. Burke noted the program has existed since 1998 and some of the students have gone on to get degrees in the field. She gave an overview of how the program is funded.

Bill Avey, Helena Lewis & Clark Forest, presented the Commissioners with a plaque in their appreciation of their support to the Youth Forest Monitoring Program.

Falls Creek Acquisition Project. (Sam Neill- Planner)

Sam Neill, Planner I, presented an update on the Falls Creek Acquisition project sponsored by the Rocky Mountain Elk Foundation (RMEF). The project is located along the Rocky Mountain Front, approximately 30 miles southwest of Augusta, Montana. The 442 acre Falls Creek property is owned by Daniel Barrett. On January 8, 2019 a public hearing was conducted initiating the 30-day public comment period and it closed on February 8, 2019. Per the Open Lands Program Guide, the next step was to hold a public hearing to consider public testimony and have the opportunity to make a decision on the project. However, the local newspaper missed the request to publish the notice of the hearing and as a result this meeting will now be a public meeting.

County legal reviewed all required due diligence materials submitted by RMEF and accepted the documents on March 21, 2019. Due to the quick response from RMEF to gather the required materials a shift from the standard review process to the expedited process timeline occurred.

For review at this meeting is the recommendation from the Open Lands Citizen Advisory Committee (CAC), public comment letters, due diligence materials and this will initiate another 30-day public comment period prior to the public hearing. Two motions can be made at the future public hearing, one for the overall decision and one to determine the funding. Since the last meeting RMEF has continued to raise funds.

Mr. Barrett the property owner filed a certificate of survey to separate 160 acres to not be included in the Falls Creek Acquisition. Staff recommends review of the CAC recommendation, public comment letters, and the due diligence report as well as initiating another 30-day public comment period.

Ms. Neill noted two additional public comments were received this week. She also stated with the 30-days comment period and required published notice the public hearing would be about 1 1/2 months out.

Ms. Neill explained the reason for another 30 days and stated based on the standard review process the January 8, 2019 public meeting opened the 30-day comment period, this was to be the public hearing, but didn't get noticed and because RMEF submitted all due diligence materials it was sent to legal for review and based on the standard review process that does not occur until after the first public hearing so the expedited process is being followed.

PUBLIC COMMENT -

Mike Mueller, Rocky Mountain Elk Foundation, discussed all the people involved in the project including the current owner of the property and his cooperation. He noted how fortunate the community is to have an open space bond program. Mr. Mueller gave an overview of the benefits of acquiring the property as public land, including the waterfalls, Falls Creek, and the Dearborn River access. The funding project has identified and/or raised \$872,000 with \$1.6 million needed. They are still fundraising.

Brad McBratney, from Augusta representing himself and the Upper Sun River Wildlife Team, stated this is the only sportsman's group in the Augusta area. He gave an overview of his experience working on the Rocky Mountain Front when he worked for the Forest Service. Mr. McBratney noted this is a tremendous recreational opportunity and the sportsman's group is in strong support of the acquisition.

Gary Bertellotti, Fish Wildlife & Parks Regional Supervisor, stated the Rocky Mountain Front provides substantial and diverse wildlife and recreational opportunities. The values to be gained with this project are infinite and they are in complete support.

Bill Avey, Helena Lewis & Clark National Forest Supervisor, stated this is an important acquisition for the public and thanked those involved and the Commission for their consideration. The Forest

Service has some limited funding to put towards the project, but are waiting for Congress to convene a total budget package. This project was the top priority in the Land and Water Conservation Fund nomination.

Commissioner Good Geise asked about the possible future funding and Mr. Avey stated the only for sure availability of funds is about \$225,000, but he is hesitant to count on any definite funds until the budget agreement is resolved between Congress and the President.

Mike Mueller, Rocky Mountain Elk Foundation, stated the dollar amount he mentioned did include \$255,000 of Land and Water Conservation Fund.

Steve Platt, representing the Montana Chapter of Backcountry Hunters and Anglers, stated their thankfulness for all of the support to this project.

Brent Lonner, Fish, Wildlife & Parks Area Wildlife Biologist, stated Fish, Wildlife & Parks could potentially have some funds to contribute for site development, parking areas, fishing access site potential, but they have a process they would have to go through to get to that point and he would have no idea of the amount. The Rocky Mountain Front is one of the most diverse areas in the lower 48 states in terms of habitat and wildlife. Mr. Lonner gave an overview of elk herd management and noted this project has the potential to help reduce the elk numbers before they get to private land.

Will Trimbath, Trout Unlimited Pat Barnes Chapter President, stated they are in support of the project.

Rod Bullis, small land owner in Lewis and Clark County, thanked all those involved and is in full support of this project.

Bryan Golie, Montana State Game Warden in Region 4, stated 30% of his job is working on access projects. Mr. Golie stated this is a great project. He introduced the backcountry game wardens, discussed the law enforcement side of the project and noted they are prepared to support and provide the law enforcement side of the project.

Joe Cohenour, representing the Elkhorn Chapter of the Rocky Mountain Elk Foundation (RMEF), explained how this project 120 miles from Helena can benefit the Helena area. Mr. Cohenour gave an overview of projects the Helena RMEF participates in and noted it has netted over \$1.2 million in 34 years and has invested over \$20 million back into the Helena Community. The purchase of the 442 acres of the Falls Creek property allows access to the 26,000 acres behind it and this project is huge.

A motion was made by Commissioner Hunthausen to open the 30-day comment period, allow staff to set a date and provide the required public notice. The motion was seconded by Commissioner Good Geise.

Commissioner Good Geise stated that Connie Cole, Chair of the Open Lands Citizens Advisory Council (CAC) was unable to attend but sent a letter showing the CAC's strong support.

Commissioner Hunthausen noted the comments heard today can be brought forward at the next meeting as part of the public record.

Ms. Neill noted the staff report is a compilation of all public comment received thus far and there will be a final compilation of comments at the next meeting.

Commissioner McCormick stated there is a motion on the table. The motion Passed on a 3-0 vote.

Task Order 19-07-5-21-012-0 Contract Amendment Between Lewis and Clark Public Health and Montana Department of Public Health and Human Services. (Jacqueline Isaly)

Jacqueline Isaly, Community Health Promotion Division Administrator, presented the contract amendment 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 \$19,000 bringing the total contract amount to \$247,381.96. The program provides nutrition, education, and food benefits to low income pregnant women and families with children ages 0 to 5. The amendment will add Jefferson, Meagher, and Broadwater Counties to the current WIC service area. Ms. Isaly gave an overview of the average participants in those counties. Previously Broadwater County held the contract but as of March, 2018 they chose to no longer provide WIC to those counties. The plan is to hold satellite clinic hours twice a month in Townsend, once per quarter in White Sulphur Springs, and by contracting with Jefferson County Public Health for their staff to hold the WIC clinic. The grant period began October 1, 2018 and ends September 30, 2019. Staff recommends approval of the contract amendment with the Montana Department of Public Health and Human Services.

Ms. Isaly noted providing the benefits for the Farmers Market aides in the retention of families with children ages 1 to 5. She stated participation in Meagher and Broadwater Counties had been decreasing due to inconsistent services and having a consistent clinic within the Broadwater Health Center in Townsend will benefit the families.

Ashley Pena Larson, Head Start Director for Lewis and Clark, Jefferson, and Broadwater Counties, gave an overview of the focus groups regarding WIC and why the drop off after age one. She noted in the last year the amount of children on WIC under the age of 5 has doubled. The ecard has been very beneficial.

Ms. Isaly gave an overview of the planned process that will take place with the satellite clinics, initially starting with the registered dietician (RD) traveling to the clinics and over time there having the potential for other staff go and use telehealth back to the RD as needed.

The Jefferson County Health Department has been providing WIC and will continue once a contract is in place. Lewis and Clark Public Health will only travel to Meagher and Broadwater County.

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 3-0 vote.

Contract Between Lewis and Clark Public Health and Montana Department of Public Health and Human Services. (Jacqueline Isaly)

Jacqueline Isaly, Community Health Promotion Division Administrator, presented the grant contract with the Montana Department of Public Health and Human Services in the amount of \$60,000 to implement activities in partnership with the Early Childhood Coalition (ECC) of the Greater Helena Area. The funds will be used to support a full time ECC coordinator, supplies and materials for the ECC, as well as the development of an updated five year strategic plan. Ms. Isaly gave an overview of the long history that Lewis and Clark Public Health has with the ECC. The contract period is January 1, 2019 through December 31, 2019. Staff recommends approval of the contract with the Montana Department of Public Health and Human Services.

Ms. Isaly noted a statewide needs assessment is currently being conducted by the state for early childhood services and the coordinator would follow any recommendations from the assessment to identify any gaps and to ensure families are served with no duplication in efforts in the community.

Ms. Isaly gave a brief overview of the CONNECT Referral System and stated the ECC coordinator will attend coalition meetings to understand what is happening, proposed efforts, projects and then communicate with and connect everyone in the early childhood world.

Ashley Pena-Larsen, Head Start Director, stated the ECC is a group of different organizations and agencies and individually they all use the CONNECT Referral System. The ECC coordinator position was previously held by United Way and was leveraged through funds received by Head Start.

PUBLIC COMMENT -

Ms. Pena-Larsen encouraged the Commission to approve the contract as it is a unique opportunity in the world of limited funding for early childhood to actually have someone who is solely focused on the efforts.

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

Contract Between Lewis & Clark Public Health and National Association of Chronic Disease Directors. (Jacqueline Isaly)

Jacqueline Isaly, Community Health Promotion Division Administrator, presented the grant contract with the National Association of Chronic Disease Directors in the amount of \$7,500 to implement activities associated with the Reaching People with Disabilities through Health Communities national pilot project. The contract is effective March 1, 2019 through July 31, 2019. This is a continuation of an existing project paired with the Plan for Health and Wayfinding Initiative part of the national initiative called Reaching People with Disabilities through Healthy Communities. The purpose is to reduce chronic disease by increasing access to physical activity and nutrition for individuals of all abilities. The work plan will include ongoing implementation of features of the wayfinding system, including the possibility of an assistive technology app that speaks the content of the wayfinding system signs for those visually impaired. Helena is one of four communities chosen to showcase in a video as a testimonial to the successes made in the community. The Healthy Communities Coalition are guiding and advising Public Health in the project. Public Health now has an inclusiveness work group that meets monthly and assesses both physical built environment as well as the engagement with customers to ensure inclusiveness as much as possible as an organization. Staff recommends approval of the contract with the National Association of Chronic Disease Directors.

Ms. Isaly explained the funds are to finalize and support the implementation of identified projects of the wayfinding system and not to make a new plan.

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.

Contract Between Lewis and Clark County and Bonneville Environmental Foundation. (Jennifer McBroom)

Jennifer McBroom, Water Quality Protection District Supervisor, presented the contract with Bonneville Environmental Foundation in the amount of \$60,000 for the Prickly Pear Creek re-watering project. The contract will provide \$12,000 annually for five years ending in December 2023. The estimated project cost annually is \$15,220. The purpose of the project is to allow Prickly Pear Creek to stay in stream. Historically the creek has gone dry from north of East Helena to Canyon Ferry due to irrigation demands. The benefits are improved fisheries and aquatic ecosystem; allow for stream restoration projects; reduces temperature, sediment, erosion; and junior water right-holders receiving water towards the end of the summer. Staff recommends approval of the contract with Bonneville Environmental Foundation.

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.

Contract Between Lewis and Clark County and United States Department of the Interior. (Jennifer McBroom)

Jennifer McBroom, Water Quality Protection District (WQPD) Supervisor, presented the contract with the United States Department of the Interior in the amount of \$1,720 for temporary water service for

the Prickly Pear Creek re-watering project. The amount of water delivered is not to exceed 2,000-acre feet of water for the project where 28 or so irrigators will receive their full allotment of water for irrigation needs. The project is a joint effort between the WQPD, Helena Valley Irrigation District, Bureau of Reclamation, Prickly Pear Creek Water Users Association, and annual funders. The result is Prickly Pear Creek has maintained base flow throughout the summer and the benefits are an increase in fish populations, aquatic life, stream restoration projects, and the overall health of the stream. The contract becomes effective on the execution date through December 31, 2019. Staff recommends approval of the contract with the United States Department of the Interior.

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 3-0 vote.

SIA Extension Request. 46 Degrees North Subdivision - Phase I. (Applicant: Heller Development LLC) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner III, presented the request from Heller Development, LLC, Applicant for the extension of the Subdivision Improvements Agreement (SIA) completion date for Phase I of the 46 Degrees North Subdivision. The Subdivision is located east of and adjacent to North Montana Avenue, west of Interstate 15, and south of and adjacent to the Treasure State Acres Subdivision.

Phase I of the Subdivision was granted preliminary approval on March 26, 2015 with final approval on April 13, 2017. At the time of final approval the SIA was executed with the Applicant to guarantee that all remaining improvements would be completed by March 10, 2018 and the SIA was amended to extend the completion date to March 10, 2019. According to the Applicant, the following improvements have been completed: all remaining road improvements, additional stormwater improvements, and the remainder of the mailbox unit installations. Items remaining include: some stormwater improvements, seeding and rip-rapping of the detention pond; fire protection improvements; bus shelter requirements; fencing along the canal; and the walking path. With the extension request, the Applicant submitted an engineer's estimate of \$92,000 for the costs associated with remaining improvements, and a new irrevocable Letter of Credit in an amount equal to 125% of the improvement costs that will expire April 11, 2020. Planning has reviewed the information and conducted onsite inspections. In addition, Dan Karlin, County Engineer and Jesse Whitford, County Construction Project Supervisor are in agreement with the associated costs for the remaining improvements. Staff recommends approval of the SIA completion date extension request.

Ms. Morgan explained the reason for the extension request is mostly due to weather. The fire protection system is in and the Applicant was not able to flow test the system. Also the completion of the walking paths and the same with the fencing. The gate at the end of Sanders Road has been installed to prevent people from driving toward the irrigation ditch.

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 3-0 vote.

Amended Plat of Lots 1, 2, and 4 of the C. F. & W. Commercial Minor Subdivision. (Applicant: SS&K Properties, LLC) (Planner: Spencer Starke)

Spencer Starke, Planner I, presented the preliminary plat approval to amend Lots 1, 2, and 4 of the existing C.F. & W. Commercial Minor Subdivision. The amendment would eliminate a section of the 20-foot wide and 308-foot long utility easement currently located on Lots 1 and 2. Lots 1 and 2 are located south of and adjacent to Canyon Ferry Road, west of Wylie Drive, and adjacent to Big Sky Loop. The existing land use for Lot 1 is for storage and Lot 2 is for parking. The boundary line relocation has been reviewed and approved by the Lewis and Clark County's Survey Review Committee to relocate the east boundary of Lot 1 and west boundaries of Lots 2 and 4 of the

Subdivision. The relocation will adjust the Lot boundaries approximately 10 to 50 feet to the west. The Applicant has noted there are no existing utilities in the Lots and NorthWestern Energy had no comment. After review of both the private covenants and those placed on properties by the County during the Subdivision review process, staff has determined that there is nothing that would prohibit or be in conflict with the request. As of April 3, 2019 no public comments had been received. Staff recommends conditional approval based upon the findings of fact and conclusions of law.

Commissioner Good Geise reviewed the conditions of approval. These included the Applicant shall bear the expense of a final plat to be prepared with the applicable state survey requirements and the County subdivision regulations and it shall show all utility easements, along with utility easement abandonment; prior to filing, the Applicant shall provide documentation showing they are the lawful owner of the property; the preliminary approval shall be in force for not more than 3 calendar years.

Commissioner Good Geise reviewed the findings of fact No. 1 and conclusion of law. Those findings include the impacts on agriculture and agricultural water user facilities; impacts on local services; impacts on the natural environment; impacts on wildlife & wildlife habitat; provision of adequate utilities; and provision of adequate access.

The property is not currently used for agricultural purposes, the irrigation canal borders on the southern boundary of Lot 1. There will be no change to the water and wastewater systems, no change to the solid waste disposal on Lots 1 and 2, and no change to mail delivery. Utilities are adjacent to the subdivision with utility easements located along the north, east and south boundaries of Lot 2A. No comments have been received from NorthWestern Energy, Charter or Century Link. The County Road Supervisor stated Big Sky Loop is not county maintained. No comments have been received from the County Engineer. There is no proposed additional traffic, no change in schools. No comments from emergency services. Parkland does not apply. DEQ stated the exemption is valid. There is no change to wildlife habitat. Public health and safety are not affected.

No public comment was received.

A motion was made by Commissioner Good Geise to approve the findings of fact and seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Good Geise to adopt the conclusion of law that the proposed amended Subdivision plat will have no adverse impacts on the criteria listed above. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

Commissioner Good Geise reviewed the findings of fact No. 2 regarding compliance with survey requirements. The preliminary amended Subdivision plat does not meet County survey standards.

A motion was made by Commissioner Good Geise that after reviewing the findings of fact on survey requirements, to adopt a conclusion of law that the preliminary amended Subdivision plat is not in compliance with County standards, Condition of Approval No. 1 will require that the final plat be completed in accordance with these requirements. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Good Geise to approve the preliminary amended plat as submitted. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

**Consideration of Filing an Amicus in Support of the Forest Service Ten Mile South Project.
(Roger Baltz)**

Roger Baltz, Chief Administrative Officer, presented back up information regarding the consideration of filing an amicus in support of the Forest Service Ten Mile South Project.

Hoyt Richards, Central Land Officer and Area Manager for the Department of Natural Resources & Conservation (DNRC), gave some history and background on the Ten Mile Creek project. The forest service formed a collaborative that develops alternatives for consideration. In December of 2018 the forest service made the decision through the collaborative to treat about 17,000 acres. The treatments occur on forest service property in strategic locations in both Jefferson County and Lewis and Clark County. The project provides opportunities such as restoring the forest health, keeps workers in the field and supports industry. The DNRC and the forest service through the Good Neighbor Authority signed a letter of intent committing that the DNRC will manage a portion of the project.

Discussions are continuing on the details. Even though a portion of the ground is federal the DNRC is the fire protection agency through agreement. Mr. Richards noted through the partnership with the County many of the treatment anchors go into the County protection. After the letter of intent was signed, the Montana Wildlife Federation and Helena Anglers Association filed suit against the forest service. Mr. Richards corrected a statement from his email that stated they requested an injunction and that is not correct. Mr. Richards stated this project is so important to ensure firefighters have an opportunity to engage safely. The state is discussing their legal options and Lewis and Clark County has the opportunity to consider their legal options. Mr. Richards recommends the filing of the amicus. He reviewed the options for the County to consider should the decision be made to take a legal action in support of the forest service. He knows Jefferson County is having similar discussions. Mr. Richards added the DNRC has provided funds to the Coalition of Forest Counties for assistance to counties for legal support.

Bill Avey, Helena-Lewis and Clark National Forest Service Supervisor, gave an overview of the Ten Mile project and noted the watershed has been studied extensively by fire behavior experts. The strong recommendation is to treat 20 to 40 percent of the landscape by removing fuel off of the area. This project treats 24 percent of the landscape. Mr. Avey added because of public and collaborative member concerns they are treating the lower end of what can be done to affect fire behavior in that landscape. Mr. Avey noted the fuel modeling shows that a fire in the drainage on a standard red flag, high fire day could possibly burn 6 to 8 blocks into downtown Helena. The project is about firefighter and public life safety; ensuring resilient forest conditions for the municipal watershed, the wildlife that depends on the habitat, the citizens of Lewis and Clark County, the City of Helena, the state and the nation.

Mr. Avey commented on the Alice Creek fire that had a lot of horizontal fall and falling dead trees due to beetle kill hindered the crews from surrounding the fire. This is increasingly common across the west due to the beetle kill. He added the Ten Mile South drainage area has some places with 90 percent beetle kill mortality and a condition not foreseen when the 1986 Helena Forest Plan was signed along with the standards and guidelines. Mr. Avey stated some of those standards cannot be met today related to elk hiding cover due to the amount of mortality by not doing anything on the landscape. Mr. Avey stated the guiding precept for the management of the forests was established by Gifford Pinchot the first Chief Forester of the United States at the turn of the century.

Mr. Baltz stated the estimated cost to the county would be roughly \$5,000 with the possibility of a program for money to recoup some of the funds.

No public comment was received.

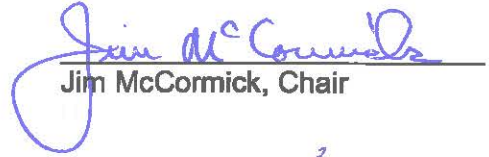
A motion was made by Commissioner Hunthausen to file an Amicus Brief in support of the Forest Service Ten Mile South Project and ask staff to work with those identified working with the neighboring counties and jurisdictions to file jointly if appropriate and apply for any available grant funding. The motion was 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 11:46 am.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Jim McCormick, Chair


Susan Good Geise, Vice Chair


Andy Hunthausen, Member

ATTEST:



Paulette DeHart, Clerk of the Board