



PUBLIC MEETING

April 21, 2015
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on April 21, 2015, at 9:00 AM in Commission Chambers Room 330.

Roll Call

Chairman Andy Hunthausen called the meeting to order at 9 a.m.

Commissioner Susan Good Geise and Commissioner Mike Murray were present. Others attending all or a portion of the meeting included Eric Bryson, K. Paul Stahl, Jason Danielson, Matt Heimel, Lindsay Morgan, Kim Smith, Ranoda Jenkins, Earleen Franklin, Barney Franklin, Torsjorn Ohlin, Karin Ohlin, Gary Smigji, Craig Spankle, Marilyn Pearson, Thomas Pearson, James O'Connor, Linda Dahl, and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Proclamation Recognizing April 23 - April 26, 2015 as Stand Against Racism Weekend.

Commissioner Hunthausen read the Proclamation recognizing April 23- April 26, 2015 as Stand Against Racism Weekend.

Consent Action Items

Resolution 2015-53 Road Renaming and Readdressing Request Near East Helena. (Jason Danielson)

Jason Danielson, City-County Address Coordinator, presented resolution 2015-53 renaming E. Old Highway 12 to E. Main Street. On March 17, 2015, the Board of County Commissioners held a public hearing regarding the request to rename E. Old Highway 12 and this morning the resolution is presented for final consideration.

No public comment was received.

A motion to Approve was made by Commissioner Murray and seconded by Commissioner Good Geise, and the motion result was Passed with a vote of 3-0

Resolution 2015-61 to Create Bridge Creek Rural Improvement District No. 2015-4. (Matt Heibel)

Matt Heibel, Special Districts Planner, presented resolution 2015-61 to create Bridge Creek Rural Improvement District. The resolution of intention to create the district was adopted on March 12, 2015. A 30-day protest period has closed, with no protests received. The maintenance activities include, but are not limited to: snow plowing, flushing storm sewer, crack sealing, chipseal, miscellaneous maintenance and other repair as necessary to preserve roads. The estimated cost for said maintenance is \$11,775.45 per year. Each lot shall benefit equally and shall be assessed a flat fee of approximately \$145.38 per year. All maintenance funds collected for the district will be spent solely for the road maintenance within the proposed district. The improvements include, but are not limited to: chipseal. The estimated cost for said improvements is \$75,911.70, to be funded by a debt service assessment of \$93.72 per parcel per year, levied for a period of ten years. If the proposed district is created, a rate hearing will be scheduled and noticed with a 10-day protest period.

No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner Murray, and the motion result was Passed with a vote of 3-0

Resolution 2015-62 to Create Big Valley-Cabin Road Rural Improvement District No. 2015-2. (Matt Heibel)

Matt Heibel, Special Districts Planner, presented resolution 2015-62 to create Big Valley-Cabin Road Rural Improvement District No. 2015-2. The resolution of intention to create the district was adopted on March 12, 2015. A 30-day protest period has closed, one letter of protest was received. The maintenance activities include, but are not limited to: 1. snow plowing, grading, and culvert cleaning for a portion of Diamond Springs Road. 2. snow plowing, grading, and culvert cleaning for a portion of East Cabin Road. 3. snow plowing, grading, and culvert cleaning for a portion of West Cabin Road. The estimated cost for said maintenance is \$6,473.51 per year. Each lot shall benefit equally and shall be assessed a flat fee of approximately \$184.96 per year. All maintenance funds collected for the district will be spent solely for the road maintenance within the proposed district. The improvements include, but are not limited to: 1. 6" select base, 3" base aggregate, and installation of cross drain culverts for a portion of Diamond Springs Road. 2. Culvert extension on West Cabin Road. The estimated cost for said improvements is \$59,420.52, to be funded by a debt service assessment of \$242.53 per parcel per year, levied for a period of seven (7) years. The protest letter received was for the property on the northern boundary on West Loren Road as they do not receive maintenance or improvements but has been historically identified as a benefited property of the Big Valley Rural Improvement District and has been identified as such for the Big Valley-Cabin Rural Improvement District. The property owners stated that they do not use the road.

Commissioner Geise asked for clarification on what a benefiting property is.

Matt Heibel stated that a benefiting property is identified based on properties that have access, front the roads or have possible access to the improved or maintained road. These districts can be amended to include service and they can access these improved roads.

PUBLIC COMMENT-

Linda Dahl, 400 West Cabin Road stated that the road is extremely hazardous due to the road conditions and supports the resolution.

Toby Ohlin, 521 West Cabin Road, stated his support for the resolution.

Earleen Franklin, 243 West Cabin Road, stated her support for the resolution.

Barney Franklin, 243 West Cabin Road, stated his support for the resolution.

A motion to Approve was made by Commissioner Murray and seconded by Commissioner Good Geise, and the motion result was Passed with a vote of 3-0

Resolution 2015-63 to Create Hillview Rural Improvement District No. 2015-3. (Matt Heimel)

Matt Heimel, Special Districts Planner, presented resolution 2015-63 to create Hillview Rural Improvement District No. 2015-3. The resolution of intention to create the district was adopted on March 12, 2015. A 30-day protest period has closed, with no protests received. The maintenance activities include, but are not limited to: 1. Snow plowing; 2. Grading Hillview Drive and the west portion of Roma Road twice per year; 3. Grading the Capri Drive loop and the east portion of Roma Road once per year; 4. Culvert cleaning 1/5 per year; and 5. Miscellaneous road work. The estimated cost for said maintenance is \$4,200 per year. Each lot shall benefit equally and shall be assessed a flat fee of approximately \$100 per year. All maintenance funds collected for the district will be spent solely for the road maintenance within the proposed district. The improvements include, but are not limited to: 1. Cutting and sloping ditches; 2. Add 6 inches of pit run to be bladed, watered and rolled; 3. Top with 4 inches of 3/4" road mix to be bladed, watered, and rolled; and 4. Stake new road edges and pot hole the utilities. The estimated cost for said improvements is \$99,772.75, to be funded by a debt service assessment of \$237.55 per parcel per year, levied for a period of ten (10) years. If approved a rate hearing will be scheduled and noticed for with a 10-day protest period.

Commissioner Geise asked about culvert cleaning and what one fifth represents.

Matt Heimel stated that Public Works looks at one fifth of the culverts each year.

Commissioner Geise asked if a resident noticed a culvert being plugged what should they do.

Matt Heimel stated that they should call County Public Works.

No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner Murray, and the motion result was Passed with a vote of 3-0

Presentation of Petition to Annex Adjacent Land Into The East Helena Valley Rural Fire District. (Matt Heimel)

Matt Heimel, Special Districts Planner, presented the petition to annex adjacent land that is currently in the Tri-Lakes Fire District into the East Valley Rural Fire District. The Chiefs of the East Helena Valley Rural Fire District and the Tri-Lakes Fire Service Area have agreed that these properties would be better served by the East Helena Valley Fire District. The East Helena Valley Fire District Board of Trustees has reviewed the petition and approved the

annexation process. The Tri-Lakes Volunteer Fire Department Board of Trustees has reviewed the petition and approved the annexation process.

Commissioner Murray asked if there was a difference in the assessment on the property from one fire district to the other.

Matt Heimel stated the estimates for the petition were made based on the 2013 taxable value, the actual value will be based on the 2014 values. The action before you today will be to set a date for a hearing at a time not less than 4 weeks after this presentation, anytime after April 21, 2015.

No public comment was received.

A motion was made by Commissioner Murray to hold the public hearing at the regularly scheduled meeting on June 4, 2015 and seconded by Commissioner Geise, and the motion result was Passed with a vote of 3-0.

Subdivision Improvements Agreement for the Buckboard Meadows Subdivision (Applicant: Valley Construction of Helena, LLC) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented the subdivision improvements agreement for Buckboard Meadows Subdivision. The applicant has requested an extension of the completion date under the Subdivision Improvements Agreement for Buckboard Meadows Subdivision until March 2, 2016. The applicant has submitted an updated letter of credit in the amount of \$20,207 that will expire April 2, 2016. The only improvement remaining under this agreement is the chipseal requirement for the internal road network. The letter of credit should cover this cost completely plus the additional 25% that is required under the County Subdivision Regulations.

The applicant, Kim Smith, stated that the plan is to have the chipseal done this year.

No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner Murray, and the motion result was Passed with a vote of 3-0

South Forestvale II Subdivision (Modifications) (Applicant: Kim Smith Properties, LLC) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented the South Forestvale II subdivision modification request as the applicant is requesting modifications to the following conditions of approval for the preliminarily approval South Forestvale II Subdivision. The applicant is requested modifications to the following, Condition No. 9, regarding the requirement to chip-seal a portion of Mill Road, No. 10.b, regarding the requirement to establish a Rural Maintenance District or Rural Improvement District for maintenance of the community water supply system and No. 13.a. regarding the requirement to pay a per lot fee to the West Helena Valley Fire District. In addition to modifying the three existing conditions, the applicant has also requested a variance from Chapter XI.S, and Appendix L 18-4.1 of the 2005 County Subdivision Regulations. The property is located north of and adjacent to Mill Road, east of and adjacent to Green Meadow Drive, and south of and adjacent to Scribner Road. Preliminary approval of this 20-lot subdivision was granted on December 28, 2006. As a requirement of preliminary approval the applicant was required to meet 21 conditions. The applicant is seeking to modify conditions number 9, 10b and 13a. The following is a list of the specific conditions the applicant is seeking

to modify condition no. 9. requires the applicant to improve Mill Road from the intersection of Green Meadow Drive with Mill Road to the east property boundary by the application of chipseal to the specifications required by the County Subdivision Regulations. Mill Road, one of the two ingress-egress routes for the preliminarily approved Subdivision, was chip-sealed by the County Public Works Department in 2012. According to the Institute of Transportation Engineers Standards, the duration of a chip-seal application is 7-10 years, depending upon traffic and weather conditions. Therefore Mill Road is not expected to need another chipseal application until at least 2019. Scribner Road, the other ingress-egress route for the preliminarily approved Subdivision, is also required to be chip-sealed by the Applicant from the intersection of Green Meadow Drive to the east property boundary of the Subdivision. The Applicant is not proposing any amendments to this requirement, and therefore still plans to complete the improvements. Because the chipseal for Mill Road was completed by the County in 2012, the Applicant is requesting to eliminate Condition No. 9 in it's entirety. Condition no. 10b. "In cooperation with the County, the Applicant shall create a Rural Maintenance District in order to maintain the following: community water supply system. An RMD/RID for a subdivision is intended to help fund the maintenance of public improvements, such as parks, streets and roads, and community water supply and wastewater treatment systems. However, the applicant does not want the water supply system to be a public improvement for the Subdivision, as the applicant wants to maintain and manage the system privately, and to charge fees for its use. The Applicant is therefore requesting to eliminate Condition No. 10b. Condition 13a. states that the following improvements and requirements for the purpose of furthering fire protection shall be installed. \$1,000.00 per lot fee paid to the West Valley Fire District. The 2005 County Subdivision Regulations had a provision allowing a subdivider to pay a \$1,000 per lot fee for a Class II subdivision in-lieu of providing an on-site fire protection water supply system. However; in March of 2007, the First Judicial District Court invalidated the per lot fee for fire protection under those Regulations. As a part of the modification request, the applicant is also seeking a variance from Chapter XI.S, Appendix L 18-4.1 of the 2005 County Subdivision Regulations. According to the application, the applicant has specifically requested a variance so that he will not be required to pay a per lot fire protection fee, provide an on-site fire protection water supply system, or require homeowners to install fire sprinklers in habitable structures. The applicant proposes to fulfill the fire protection requirement by utilizing an off-site fire protection water supply system, which was not allowed under the 2005 County Subdivision Regulations. The fill site for the West Valley Fire Department is located just off of Forestvale Road, which lies in the Independent Order of Odd Fellows Cemetery, approximately 1.18 road miles from the north end of the Subdivision, when traveling on Scribner Road, Green Meadow Drive, and Forestvale Road; and approximately 1.28 miles from the south end of the Subdivision, when traveling on Mill Road and McHugh Drive. No pump tests for this fill site were submitted with the application. Based on the proximity of an off-site fire protection source, the Applicant is requesting to eliminate Condition No. 13.a. The Community Development and Planning Department requested comments from numerous agencies regarding the proposed modifications. After a full review of the proposed modifications, the following circumstances have changed since preliminary plat approval was granted: 1. Mill Road received a chip-seal treatment in 2012 by the County Public Works Department. 2. The Applicant who received preliminary approval of the Subdivision was Steve Skinner. Kim Smith Properties, LLC, the new Applicant, has taken over the project. 3. In March of 2007, the First Judicial District Court invalidated the per lot fee for fire protection under the 2005 County Subdivision Regulations. 4. The Lewis and Clark County Subdivision Regulations were amended in 2007, 2009, 2010 and 2013. In particular, the Fire Protection Standards are now located under Appendix K, which has been amended to: (1) allow for the utilization of off-site fire protection water sources and (2) eliminate the \$1,000 per lot fee option as a means of providing fire protection for a subdivision.

Commissioner Geise asked about offsite access to water for fire suppression, what is the current outside boundary.

Lindsay Morgan stated that the current regulation specify 1 mile. The shortest distance is 1.18 miles.

Commissioner Murray asked the applicant to explain his plan for the community water supply and the condition to form an RID to maintain the water supply.

Kim Smith, the applicant, stated that the proposal is to privately own the public water supply. That allows one person to be responsible for it and be in charge of operating it rather than the home owners association. It is located on the 20th lot and is a separate parcel than the subdivision and would be under different ownership than the subdivision. The applicant asked for clarification from Ms. Morgan on the original requirement for chipsealing on Scribner Road and whether it was to the entrance of the subdivision. The subdivision is close to the Forestvale fill site, water will still be brought in to the site.

Commissioner Geise asked the applicant about condition 13 a. and the proximity of being over one mile.

Kim Smith, stated that he is over the mile but feels this is a fairness issues and goes back to working with the development community.

Commissioner Hunthausen asked the applicant if he has talked with Chief Shepard about this issue.

Kim Smith, the applicant, stated that he had but did not receive any comment. In the applicant's opinion the Fire Chief does not want to be involved with the one mile regulation.

Commissioner Murray asked who is the one person who will oversee the water.

Kim Smith, the applicant, stated the he will manage it as it is on the property he owns but he will hire someone with the proper licensing to operate it.

Lindsay Morgan addressed the applicant's question in regards to condition no. 8 regarding the chip seal of Scribner drive as it does state in the condition of approval that the improvement would be completed from Green Meadow Drive to the east property boundary.

PUBLIC COMMENT-

Marilyn Pearson, 5000 Green Meadow Drive, stated her concern with granting a variance for distance being just past a mile as you could be setting a precedence in the future for additional variances. Her concerns also included the need for chip sealing due to the heavy equipment being brought in and for future homeowners as they will not have any control or say in their water.

Gary Smigaj, 5280 Wagonwheel Drive, stated that he did not think that the original plat included as many lots as proposed today and believes that most of these lots you cannot have a septic drainfield due to the bodies of water that surround the property.

Lindsay Morgan stated that in regards to the public comment about the drainfield, one of the conditions of approval requires approval from DEQ for wastewater and water systems. The County Subdivision Regulation has different setbacks depending on what body of water is nearby. The applicant is requesting a variance from the 2005 Subdivision Regulation to be able to have an offsite water supply considered to be able to meet the fire system requirements.

Those regulations in 2005 did not have parameters defined as offsite water supply was not an option.

Kim Smith, the applicant, stated that he has already received approval from DEQ for the septic systems. In his opinion, he is making a compromise with the road improvements and it doesn't make sense to chip seal over chip seal. As far as managing the water, the plan is to charge \$40 a month for water supply along with a rate that is guaranteed for 3 years and if the rate was to change it would go before the Public Service Commission.

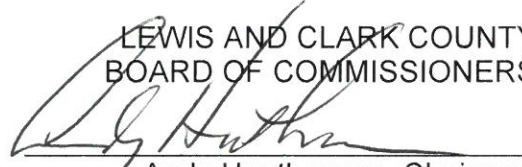
A motion was made by Commissioner Geise to render a final decision at the regularly scheduled meeting on April 28, 2015 and seconded by Commissioner Murray, and the motion result was Passed with a vote of 3-0.

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

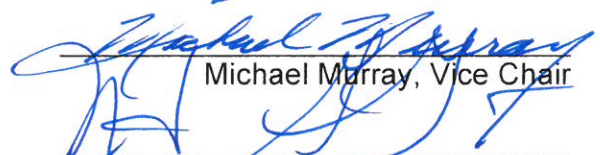
Adjourn

There being no further business, the meeting adjourned at 10:05 am.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Andy Hunthausen, Chairman



Michael Murray, Vice Chair



Susan Good Geise, Member

ATTEST:



Paulette DeHart, Clerk of the Board