



PUBLIC MEETING

April 8, 2021
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, April 8, 2021, at 9:00 AM in Commission Chambers, Room 330.

Roll Call

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

Commissioner Jim McCormick and Commissioner Tom Rolfe were present. Others attending all or a portion of the meeting included Eric Austin, Roger Baltz, Charles Lane, Greg McNally, Audra Zacherl, Howard DesRosier, Kevin Horne, Bob Utick, Steve Utick, and Nadine McCarty, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

- a. Public Meeting Minutes for November 5, 2020; March 16, 18, 23, and 25, 2021. (Nadine McCarty)
- b. Resolution 2021-24 Declaring County Property Surplus Property. (Amy Reeves)
- c. Resolution 2021-25 Declaring County Property Surplus Property. (Amy Reeves)
- d. Request for Records Disposal or Transfer Authorization from the Elections Office. (Audrey McCue)

Roger Baltz reported on the consent action items 2 a-d and recommended approval.

No public comment was received.

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

Bid Opening. Mill Road Bridge Replacement - Prestressed Beams & Concrete Grade Beam Supply. (Audra Zacherl)

Audra Zacherl, Public Works Assistant Director, presented the bid opening for the purchase of a precast, prestressed concrete bridge and precast concrete grade beams. The project consists of replacement of an existing timber bridge north of Helena, Montana on Mill Road over the Helena Valley Canal. The work will involve supplying precast prestressed concrete trideck beams complete with precast end diaphragms, small curbs, and bearing pads on a precast concrete grade beam foundation. County bridge crews will construct the bridge. One bid was received. The one bid is from Forterra of Helena, Montana for a total bid amount of \$113,157.29.

A motion was made by Commissioner McCormick for staff to take the bid under advisement and make a recommendation to the Commission on April 15, 2021. The motion was seconded by Commissioner Rolfe. The motion Passed on a 3-0 vote.

Quarterly Update of the Helena Valley Planning Area Blue-Ribbon Panel, known as the Zoning Advisory Panel. (Peter Italiano and Dr. Eric Austin)

Greg McNally, Planner III, on behalf of Peter Italiano, stated the purpose of the Zoning Advisory Panel is to assist staff with the drafting of regulations for the Urban and Suburban Residential Mixed-Use Zone Districts. As well as the suggestion of possible options regarding the Rural Residential Mixed-Use District and the 10-acre minimum lot size/density and setbacks included in that District that are currently stayed until June 1, 2022.

Meetings began at the end of January, occurring the second and fourth Tuesday of every month. The meeting agendas and information are posted on the County website. Dr. Austin is the moderator chosen to assist the panel and has provided great guidance to the panel members and staff. They have been averaging about 25 to 30 participants, including the 12 panel members, staff and members of the public, via the Zoom platform. As discussions progress, they anticipate a larger public participation. He introduced Dr. Eric Austin from Montana State University.

Eric Austin, Moderator of the Zoning Advisory Panel, gave an update on the activities of the Panel and key elements of the process that consists of a workplan organized in three stages. Stage 1 baseline information and level-setting (January-Mid-May), panelists provide background information, review of Growth Plan, City-County coordination on planning processes, and most recently began to look at water issues. There will be three or four other topics in this stage. Stage 2 identification and cataloging of community concerns and values (June-late July), looking at values and concerns that exist among the panelists, and information from the public at large. Stage 3 identification and assessment of potential zoning proposals (Early August-Early October); this will include the development and vetting of any proposals to be considered for recommendation to the County Commission. The ideal is to develop a proposal that best aggregates the technical concerns as well as the priorities and values of the County citizenry more broadly. The hope is the process will be a unanimous consensus based analysis. Minimally it will do a substantial job of considering the concerns.

He believes there is a good representation of the community. The makeup of the panel has a breadth of expertise and perspective that is critical. There have been number of questions from the public at large.

Dr. Austin explained much of his work is a creative problem solving process that uses the idea of drawing on the diversity of the stakeholders' expertise to improve the quality of any potential decision or recommendation with the idea it can reduce the likelihood of unintended consequences. Another benefit of the process is the inclusiveness of the public and their concerns. He added establishing the ground rules and part of the character of those rules is to ensure working processes are in place to have the diversity of opinion present and people can feel comfortable sharing that opinion. The panel has the kind of expertise and background that is critical. The more the panel interacts with each other the more likely they are to be proactive individually to bring up concerns.

Commissioner McCormick asked how the engagement has been with Helena and East Helena regarding the urban and suburban pieces connected to the cities. Dr. Austin noted procedurally one of the early sessions was with the City of Helena and their planning staff. Soon there will be a session with East Helena. Staff members of both cities have regularly attended the meetings and have answered questions regarding those areas.

The panel knows of the five main topics, are aware of the timeline and workplan, but no specifics, such as fire, transportation, etc., have been discussed yet. They have been working to figure out the order

as well as coordinate schedules with City and County staff and provide the panel with information up for discussion prior to each meeting.

Commissioner McCormick spoke of the current fire mitigation work occurring through Capitol 360 and noted those resources are available. Dr. Austin noted being aware of those type of initiatives and understanding the complexity of those interactions is part of the first stage.

Commissioner Hunthausen stated throughout all the previous meetings it was heard that zoning and planning are not necessarily bad, but in the rural area one-size fits all density requirement was a concern. They also heard that the community wanted a voice regarding the rules and regulations, thus the formation of the panel. He asked if any areas of expertise are missing, and do the panelists understand they are representing a larger constituency.

Dr. Austin noted they discussed the absence of a dedicated agriculture person; however, after discussions the conclusion is the set of perspectives and concerns from the agricultural community has a presence in other sort of ways. They will need to continue to assess the topics and whether any other technical information, stakeholder perspective needs to be considered relevant to the topics. Overall, they have done a good job of staying on track. The current strategy is to capture and catalogue the issues and to assess the necessary action.

Discussion occurred on what will occur as issues arise that are a concern of the panelists but are outside of the scope. The group is aware of the need to deal with the issues as they come up and are committed to make sure they do not get lost.

Dr. Austin noted water discussions have occurred, as to whether additional hydrology studies would need to occur in various areas. At this point, he does not see any areas that will require significant studies beyond information that is available to the panel. This is one of the reasons the technical issues are at the beginning just in case it is determined additional studies are deemed necessary.

Commissioner Rolfe asked if there is any anticipation of bringing in those opposed to the zoning and Dr. Austin noted they continue to be proactive in reaching out to the community to illicit feedback from all perspectives. There has been participation from those with concerns. If there were any reason to believe the opposed are not present, they would reach out to them. The process and charge of the group was established in a way that sets it up for potential success.

Mr. McNally added The Independent Record receives agenda copies of the meetings and Helena Civic Television film the meetings.

Bid Opening. 2021 Asphalt. (Audra Zacherl)

Audra Zacherl, Public Works Assistant Director, presented the bid opening for the annual asphalt project with a couple of items added. Typically, this is for asphalt that the County crews use to fill potholes, asphalt overlays and any other asphalt type project. Added to the bid this year was constructing asphalt overlays and paving approaches in order to help the County crews do twice as much work in the season as normally done.

Kevin Horne, Road and Bridge Manager, noted they just received notice that the local suppliers are now open. The two are producing hot mix bituminous asphalt. There are quite a few breakups on the road. He explained the process of patching with the cold mix material; it is expensive and not as durable as the hot mix. Typically, April and May are the patching months. He explained the ongoing battle of the different road surfaces. The annual weight restrictions helps to preserve the road surface.

One bid was received. The bid is from Helena Sand & Gravel, Inc. of Helena, Montana for: 1) asphalt overlay quantity 7,614 tons with a unit price of \$106 for an extended price of \$807,084; tac coat of 8,040 gallons at \$2.80 per gallon for an extended price of \$22,512; 3) approach paving, 5 each at

\$4,454 each for an extended price of \$22,270; 4) placement of temporary reflective tabs on 3.78 miles at a lump sum of \$423.28 per mile for a lump sum extended price of \$1,600; 5) providing 58-28 MPW Type C asphalt to be picked up by the County at asphalt plant, 500 tons at \$71 per ton extended price at \$35,500 for a total base bid of all extended prices \$888,966.

A motion was made by Commissioner McCormick for staff to take the bids under advisement and make a recommendation to the Commission on April 15, 2021. The motion was seconded by Commissioner Rolfe. The motion Passed on a 3-0 vote.

Bid Award. 2021 Paint Striping. (Audra Zacherl)

Audra Zacherl, Public Works Assistant Director, presented the bid award for the 2021 Paint Striping project. On April 1, 2021, a bid opening was held for the 2021 Paint Striping; one bid was received and opened. The project generally consists of paint striping centerline and shoulder roadway markings for approximately 86 miles of various county roads and in Rural Improvement Districts. Staff recommends awarding the bid to the only bidder Highway Specialties, Inc. of Black Eagle, Montana for a bid amount of \$24.45 per applied gallon, no mobilization fee and a total bid amount of \$105,648.45.

No public comment was received.

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

Variance Application and Modification Request for the Preliminarily Approved Olivet Subdivision, SUBD2021-003-004. (Tabled 4-1-21) (Applicant: Robert Utick)(Planner: Greg McNally)

Greg McNally, Planner III, presented the variance application and modification to the conditions of approval for the preliminarily approved first minor Subdivision, known as Olivet Subdivision. The Subdivision is located south of and adjacent to Tea Road, approximately 700 feet east of Ferry Drive. It will create four 5-acre lots. The Applicant requested a variance of the Subdivision Regulations for fire protection, specifically Chapter XI:S: Appendix K Section 18-4.6(4) regarding the consideration of an off-site water supply system for fire protection, specifically that the water supply system be located no longer than one County road mile from an existing or proposed internal access road for the subdivision. He provided a slide that showed the subdivision location and the location of an existing water supply system in the Saddle Rock Subdivision with a distance less than one mile, however, staff and the Fire Chief previously indicated concerns about the condition of the road. The Applicant identified two other routes, both being longer.

This item was tabled on April 1, 2021 when staff shared additional information regarding comments received from Fire Chief, Jerry Sheperd on March 31, 2021. The Chief indicated he was not aware that the County is involved in the Federal Land Access Program (FLAP) grant that will make improvements to this section of Ferry Drive, Collins Drive and Snowdrift Road included in the Applicant's map. In addition, that the County would be maintaining those routes after the improvements.

Mr. McNally provided an addendum that includes two additional findings of fact to include in the staff report: 1) documenting the telephone conversation with Chief Sheperd and his acknowledgment that with the improvements to the roads, the route of Ferry to Snowdrift to Collins Drive would be a sufficient means of alternative access in an emergency, despite the distance; 2) details on the FLAP grant that it is to improve Ferry Drive from the Helena Valley Irrigation District (HVID) canal north to Snowdrift Road, Snowdrift Road east to Collins Drive, and Collins Drive south to the HVID canal. The improvements include resurfacing the roads, adding a dust palliative, and installing new drainage culverts with estimated completion by the end of the fall 2021, according to County Engineer, Dan Karlin. The County will maintain the route after improvements are complete. Mr. McNally recommended adding this to finding of fact No. 11 with Chief Sheperd's initial comments.

Commissioner Hunthausen asked if the additional findings of fact are included in the record and the variance is approved, how would it affect the conditions of approval and what additional language would be necessary. Mr. McNally noted staff recommendation remains the same and he presented additional language. In the initial staff report, condition No. 3 is the condition regarding fire protection and there is a section that discusses the applicant shall utilize an existing off-site water supply or provide an onsite water supply of sufficient volume pressure and distribution to fight fire onsite according to the schedule. He requested if the variance was approved to add the language that notes the system is located in the Saddle Rock Subdivision.

When variances are granted, a list of covenants are typically required to be included with the subdivision documenting things to be aware. One being that notice is hereby given that future owners of property within the subdivision agree to hold Lewis and Clark County harmless and indemnify the County from all claims, demands, obligation suits, causes of actions, damages and liability, etc.

Steve Utick, 2950 Fantasy Road, clarified Saddle Rock is an alternate route. The primary route is obviously the shortest on Tea Road. There is an existing 500 gallon per minute fill site on Collins Drive, almost at Lincoln Road at a distance of about 4 miles. They are also constructing a 750 gallon per minute site on the Grand Vista Estates Subdivision located just south of Fantasy Road and Collins Drive at a distance of about 3.5 miles. There are multiple larger fill sites within reasonable driving distance.

No public comment was received.

A motion was made by Commissioner McCormick to approve the variance application and modification request for the Olivet Subdivision. The motion was seconded by Commissioner Rolfe.

Commissioner Hunthausen noted this is a variance from Chapter XI.S: Appendix K, Section 18-4.6(4).

Commissioner McCormick suggested prior testimony on the findings be brought forward from previous meetings. He read Appendix K: Section 18-4 & 5 related to the off-site water supply system being located no longer than one county road mile and the utilization of the off-site water system does not require FPAHJ to travel on arterial or major collector roads, etc.

Commissioner Hunthausen reviewed the concern that Fire Chief Sheperd and staff had regarding possible times when the direct route to the fill site could be impassable, as that section of road is not maintained.

A motion was made by Commissioner Rolfe to add the additional findings to findings of fact No. 11 and approve the findings of fact. The motion was seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

Commissioner McCormick reviewed the conclusions noting: the granting of the variance will not be detrimental to public health, safety, or general welfare or injurious to other adjoining properties; because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if these regulations were enforced; the granting of the variance will not cause a substantial increase in public costs; and the approval of the variance will not place the subdivision in non-conformance with adopted zoning regulations.

A motion was made by Commissioner McCormick to approve the conclusions as presented and seconded by Commissioner Rolfe. The motion Passed on a 3-0 vote.

Commissioner McCormick reviewed the conditions of approval focusing on the additional language for condition No. 3 that read the applicant shall utilize an existing off-site water supply located within the

Saddle Rock Subdivision or provide an on-site water supply of sufficient volume, pressure, and distribution to fight fire.

A motion was made by Commissioner Rolfe to add the language to the conditions of approval under condition No. 3 and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

Commissioner McCormick read condition 9.m that discussed the notice of a restrictive covenant, binding the landowner, any heirs, successors and assigns, and all future property owners, agreeing therein to hold Lewis and Clark County harmless and indemnify the County from all claims, demands, obligations, suits, causes of action, damages and liability, etc. The referenced MCA is 76-3-608(1) and (4) and I.C.10 of the County Subdivision Regulations.

A motion was made by Commissioner Rolfe to add the the language read by Commissioner McCormick to the conditions of approval and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

A motion was made by Commissioner McCormick to approve the conditions of approval as modified and seconded by Commissioner Rolfe. The motion Passed on a 3-0 vote.

Commissioner Hunthausen added, originally staff recommended denial of the variance as it did not line up with the Subdivision Regulations and no alternative satisfied the Fire Chief. With further review and understanding that, there will be an all weather surface and maintenance on a route to the site, the Fire Chief indicated with this notice they would be able to support the variance.


Commissioner Hunthausen stated there is a motion on the table to approve the variance application and modification request as amended. 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

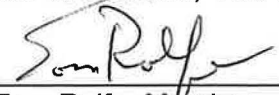
There being no further business, the meeting adjourned at 10:39 am.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Andy Hunthausen, Chair

Jim McCormick, Vice Chair



Tom Rolfe, Member

ATTEST:



Amy Reeves, Clerk of the Board