



## **PUBLIC MEETING**

May 12, 2015  
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on May 12, 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, Michele Peterson-Cook, K. Paul Stahl, Drenda Niemann, Lindsay Morgan, Jim Wilbur, Jerry Christison, and Nichole Nisbet, Recording Secretary.

### **Pledge of Allegiance**

Everyone recited the pledge.

### **Consent Action Items**

#### **Contractor Agreement Amendment between Lewis & Clark County and Patterson Enterprises, Inc. (Jim Wilbur)**

Jim Wilbur, Water Quality Protection District Coordinator, presented the contract amendment to the existing contract between the Lewis & Clark County Water Quality Protection District and Patterson Enterprises, Inc. for the Elliott Prickly Pear Creek Stream Project. Additional funding has been raised to complete the project to the full extent and the amendment will extend the contract ending date to June 15, 2015.

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

#### **Task Order 16-07-5-01-025-0 to Lewis & Clark County for the Maternal and Child Health Block Grant Program. (Drenda Niemann)**

Drenda Niemann, Community Health Promotion Division Administrator, presented the task order between the Montana Department of Public Health and Human Services and Lewis & Clark Public Health for the Maternal and Child Health Block Grant Award in the amount of \$62,121 to provide core maternal and child health services to pregnant women, non-pregnant women of childbearing age, infants younger than one year of age, children and adolescents under age 22, and/or children with special health care needs. The task order is effective July 1, 2015 and expires June 30, 2016.

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

**Task Order Amendment 15-07-3-01-009-0 to Lewis & Clark County for Montana Cancer Control Programs. (Drenda Niemann)**

Drenda Niemann, Community Health Promotion Division Administrator, presented the task order between Montana Department of Public Health and Human Services and Lewis & Clark Public Health for Public Health Systems Improvement in the amount of \$40,000 to implement four work site wellness initiatives and foster and develop the Healthy Communities Coalition. The task order is effective April 1, 2015 through February 15, 2017.

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

**Task Order 15-07-1-01-127-0 to Lewis & Clark County for Public Health System Improvement. (Drenda Niemann)**

Drenda Niemann, Community Health Promotion Division Administrator, presented the amendment to the task order between Montana Department of Public Health and Human Services and Lewis & Clark Public Health for the Montana Cancer Control Programs in the amount of \$15,000 to offset unanticipated patient navigation and work-site wellness promotion outlined in the Cancer Control contract. The task order is through September 30, 2015.

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

**Amended Plat of Lot 13-12 - Fox Trot Estates Subdivision II. (Applicant: Foxtrot Development, Inc.) (Planner: Lindsay A. Morgan)**

Lindsay Morgan, Planner II, presented the amended plat of Lot 13-12. The applicant is proposing an amendment to a filed subdivision plat, to be known as the amended plat of Lot 13-12 – Fox Trot Estates Subdivision II, and an amendment to the Subdivision Improvements Agreement (SIA) for the Fox Trot Estates Subdivision II. More specifically, the Applicant is seeking to: remove the underground utility easement along the west property boundary of Lot 13-12 in the Fox Trot Estates Subdivision II; and to eliminate the requirement to provide electrical utilities to Lot 13-12 as specified under the SIA for the Fox Trot Estates Subdivision II. In addition to the proposed amendments, the applicant has submitted a variance request from the Lewis and Clark County Subdivision Regulations for the following requirement: Chapter XI.P.4. The subject property is approximately 28.33 acres in size, approved as a single-family residential lot, and currently undeveloped. As a requirement of preliminary approval for the Fox Trot Estates Subdivision II, a 20-foot wide utility easement was placed along the west property boundary of Lot 13-12 when the Subdivision was final platted on February 19, 2015. According to the 2005 Subdivision Regulations, under which this Subdivision was reviewed and approved, the following utility easement regulations were applied: X Q. Utility Easements 1. Easements shall be provided for utilities. 2. Utility easements shall be 20 feet wide unless otherwise specified by a utility company or the governing body. This may be accomplished by 10 foot dedications along all lot lines where they can be combined for a total of a 20' easement along lot lines. Since the time of preliminary approval for this Subdivision under the 2005 Subdivision Regulations, the regulation regarding utility easement dedications under Chapter XI.Q.1 has changed. The current regulation states: easements within and to the proposed subdivision shall be provided for utilities in all locations where utilities are installed and where needed for future extensions of service. As a result of these amendments to the Subdivision Regulations, utility easements are no longer required along all property boundaries, only in places where the easements are necessary; and according to NorthWestern Energy, there are no utilities lying within the easement located along the west property boundary of Lot 13-12. Because of this, the applicant is now requesting an amendment to the filed final plat to eliminate this easement. There are three properties lying directly west of and adjacent to Lot 13-12. If this easement is removed, there will still be

existing utility easements located along both the north-east and south boundaries of this lot that extend to its west property boundary. This will still allow for the provision of utility services to both the northern and southern adjacent properties; however, the middle adjacent property will lose its ability to have any services extended via this route. This middle property does, however, lie adjacent to Merritt Lane along its south property boundary, and according to NorthWestern Energy, electrical utilities are available along Merritt Lane near its junction with the canal. This junction lies in the southeast corner of this property, and therefore, utility services, if not already provided to this property, can be obtained using this route if necessary. According to the private covenants placed on this property, there are no stipulations regarding the location of utility easements. The request to amend the Subdivision Improvements Agreement, under Exhibit "B", Condition No. 17.c of this SIA, the applicant is required to install electrical utilities to all lots within the subdivision. The applicant is now seeking to modify Exhibit "B", Condition No. 17.c of the SIA in order to eliminate the requirement to provide these utilities to Lot 13-12. Lot 13-12 is located adjacent to Fox Trot Drive, along its southeast property boundary. Existing electrical utilities are currently available off of both sides of Fox Trot Drive; however, when these utilities were extended at the request of the applicant along the west side of the road, they were not extended to Lot 13-12. The applicant stated that utilities have been provided to that lot. According to NorthWestern Energy as of yesterday, the utilities have not been extended to that property and we will need further clarification. The following is the specific condition of the SIA the applicant is seeking to amend Exhibit "B", Condition No. 17.c "Prior to filing of the final plat, the following improvements shall be installed or otherwise guaranteed and states that utilities must abut and be available to each lot. The current Subdivision Regulations have a provision that requires an applicant to comply with Chapter XI.P.4, which states if utilities are not installed adjacent to the proposed lots prior to the filing of the final plat, the subdivider shall either enter into a subdivision improvements agreement guaranteeing the installation of those utilities or the subdivider shall provide the County with signed contracts from all pertinent utility companies guaranteeing that the utilities will be installed when homes are constructed on the subject lots. The subdivider shall bear the cost of installing the trunk line utilities. Lot owners shall be responsible for the hookup of the utilities from the trunk line along the individual lot line to the residence. As a part of the applicant's requested modification, he is also seeking a variance from this regulation. According to the variance application, the applicant has requested this variance because he believes that it is difficult to determine a specific location for the installation of electrical utilities on Lot 13-12 for a future home site due to the fact that this is large lot with numerous options for locations to build that future home site. Based on the concerns expressed in this application, the applicant has requested to modify Exhibit "B" to add an exception to providing utilities to Lot 13-12. According to the private covenants placed on this property, lot owners are required to pay for their connection to utilities and there are no stipulations regarding the location and installation of utilities by the applicant. Comments received from NorthWestern Energy stated that they have no comments regarding the proposal and that the underground utility easement can be removed. No comments have been received from CenturyLink or Charter regarding the proposal. Based on conversations with NWE there are no utilities extended to the lot but are on the east side of the road. The trunk line has to be available to the property and abut that property.

Jerry Christison, the applicant, stated that large enough boxes were installed on the east side of the street that could serve both sides of the street. Conduit was put across the road to lot 13-12.

Commissioner Hunthausen asked the applicant to clarify that the conduit is in but not the power to the lots.

Jerry Christison stated that the power is not to any of the lots but the conduit is to all of the lots.

Commissioner Murray asked the applicant for clarification that the condition is to have power to the lots not just conduit and asked who is responsible for paying for putting power to the lot.

Jerry stated that power will not be given to the lot until they get ready to pull the wire through. The home owner would be responsible for hooking up to the power but the power is essentially to the lot since the conduits are in place. No other boxes will be installed.

Commissioner Geise asked the applicant if the conduit and the wire are ready to be installed and if it is ready to be activated when the property changes hands.



Jerry Christison stated there is no wire in the conduit or the box. When they push the wire through to be hooked up to the house it will be ready to go and be activated.

Commissioner Hunthausen asked Ms. Morgan to go over the condition of providing electricity to each lot in the regulations.

Lindsay Morgan stated the regulations have not changed in provision to utilities to the lot. The regulation states that prior to filing of the final plat, the following improvements shall be installed or otherwise guaranteed and states that utilities must abut and be available to each lot; The current Subdivision Regulations have a provision that requires an applicant to comply with Chapter XI.P.4, which states if utilities are not installed adjacent to the proposed lots prior to the filing of the final plat, the subdivider shall either enter into a subdivision improvements agreement guaranteeing the installation of those utilities or the subdivider shall provide the County with signed contracts from all pertinent utility companies guaranteeing that the utilities will be installed when homes are constructed on the subject lots. The subdivider shall bear the cost of installing the trunk line utilities. Lot owners shall be responsible for the hookup of the utilities from the trunk line along the individual lot line to the residence.

Commissioner Hunthausen asked for clarification if the utilities according to our regulations do not abut the lot but are provided to the lot but are on the other side of the street.

Lindsay Morgan stated that NWE stated that they have extended the utilities to those lots. The conduit is under the road and the utilities are accessible with the exception of lot 13-12. Our regulations state the utilities need to abut and be available. Ms. Morgan will clarify with NWE if the conduit is available to the lot.

Commissioner Murray stated that in previous testimony the applicant indicated that he intended to farm the lot and not put it for sale and asked the applicant if he intends to farm lot 13-12 rather than put it up for sale.

Jerry Christison stated he changed his mind and will probably sell the lot.

No further public comment was received.


Commissioner Geise moved to table the item until the next regularly scheduled meeting on Thursday May 14, 2015. The motion was seconded by Commissioner Murray, 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 9:43 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