



PUBLIC MEETING

May 14, 2015

MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on May 14, 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 Mike Murray was present. Commissioner Susan Good Geise was excused on County Business. Others attending all or a portion of the meeting included Eric Bryson, Michele Peterson-Cook, K. Paul Stahl, George Theborge, Lindsay Morgan, Brian Robinson, Jerry Christison, and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

a. Public Meeting Minutes: April 21, 23, 28 and April 30, 2015. (Nichole Nisbet)

Eric Bryson reported on the consent action item 2 a and recommended approval.

No public comment was received.

A motion to approve was made by Commissioner Murray and seconded by Commissioner Hunthausen, and the motion result was Passed with a vote of 2-0.

FFY15 Highway Traffic Safety Contract Grant Award to Lewis & Clark County Sheriff's Office. (Brian Robinson)

Brian Robinson, Sergeant with Lewis & Clark County Sheriff's Office, presented the FFY15 Highway Traffic Safety Contract Grant Award to the Lewis & Clark County Sheriff's Office in the amount of \$10,740. The funds will be used to purchase body cameras. The cameras will be used in the field and as an investigative tool.

No public comment was received.

A motion to approve was made by Commissioner Murray and seconded by Commissioner Hunthausen, and the motion result was Passed with a vote of 2-0.

Amendment to Subdivision Improvements Agreement for Southridge Estates Subdivision. (Applicant: Southridge Properties, LLC) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented the amendment to the subdivision improvements agreements for Southridge Estates Subdivision. The request is for an extension of the completion date under the Subdivision Improvements Agreement (SIA) for the Southridge Estates Subdivision located east of and adjacent to Floweree Drive, and northwest of and adjacent to York Road. Preliminary approval was

granted subject to a Settlement Agreement in January of 2009. Final approval of this subdivision was granted in July of 2014. At the time of final approval, Southridge Properties, LLC entered into a SIA with Lewis & Clark County to guarantee that all remaining improvements be completed by June 25, 2015. All improvements have since been completed, with the exception of the asphalt seal coat for the road approach aprons at the junction of Galt Road and Floweree Drive and Tizer Drive and York Road. A cashier's check in the amount of \$880.69 was submitted to the County by the developer in September of 2014 in order to financially guarantee the completion of this improvement. This check was deposited by the County in October of 2014. The applicant is requesting an extension of the SIA completion date for the Subdivision until June 25, 2016.

No public comment was received.

A motion to approve was made by Commissioner Murray and seconded by Commissioner Hunthausen, and the motion result was Passed with a vote of 2-0.

Amended Plat of Lot 13-12 - Fox Trot Estates Subdivision II. (tabled 5-12-15) (Applicant: Foxtrot Development, Inc.) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented the amended plat of lot 31-12 for Fox Trot Estates Subdivision II. On Tuesday, May 12th the Commission held a public hearing on the proposed amendments to Fox Trots Estates Subdivision II as well as a variance request. Clarification was received from NorthWestern Energy in regards to the installation of conduit and the location of the utilities in relation to the conduit. NWE stated that Lot 13-12 does have conduit installed under the road way however on the east side of the roadway where the utilities would be coming from, there is a gap between where the utilities are located and where the utilities currently exist. The smaller lots are all located on the east side of the easement for the road, where the utilities are currently located. Those smaller lots do abut the utilities and are made available. The developer has met his obligation on the smaller eleven lots however, the utilities do not connect to the conduit for Lot 13-12. Before the Commission today is the decision on whether or not to remove the western utility easement for Lot 13-12 where there are no utilities currently located in the easement. The second amendment request is to the SIA to remove the requirement to provide electric to Lot 13-12 and due to the Subdivision Regulations a variance request is before the Commission as well.

Commissioner Hunthausen stated that they have reviewed the staff report, variance request, the presentations by staff and the applicant, and the draft findings of fact and conclusions of law and approval conditions and asked if anyone is prepared to make a motion to approve, conditionally approve, or deny the request for amended plat approval.

A motion was made by Commissioner Murray that after reviewing the staff report, variance request, the presentations by staff and the applicant, and the draft findings of fact and conclusions of law and approval conditions, and after considering public testimony, to move approval of the amended plat request with conditions of approval needed to mitigate adverse impacts or bring the project into compliance with regulations. The motion was seconded by Commissioner Hunthausen, the motion result was Passed with a vote of 2-0.

Commissioner Hunthausen stated that we now have a motion on the floor for action on the amended plat application. We will first consider whether or not to approve the requested variance based on the findings of fact and conclusions of law.

Commissioner Murray stated that he has reviewed the draft findings of fact for the variance request. Those draft findings touch on the following information: final subdivision approval was granted on February 19, 2015, the Subdivision Improvements Agreement requires electrical utilities for all of the lots, the applicant wants to eliminate a requirement for providing electrical service to Lot 12-13, the lot abuts Fox Trot Drive on the southeast boundary , utilities were not extended to Lot 12-13, the applicant has requested a variance from this requirement , if utilities aren't installed prior to final plat, the

applicant must bond for them, the applicant argues that the lot size precludes predicting where utilities will be needed and the private covenants don't affect this decision. Commissioner Murray moved to add findings of fact No. 10 that there is conduit that has been installed under the road and provided to the lots. The motion was seconded by Commissioner Hunthausen, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Murray that after reviewing the draft findings of fact for the variance and considering public testimony, to approve of the findings as amended. The motion was seconded by Commissioner Hunthausen, the motion result was Passed with a vote of 2-0.

Commissioner Murray stated that he has reviewed the variance criteria that must be met by the applicant. Those variance criteria are the following: the granting of the variance would 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 the strict letter of the standards were enforced, the granting of the variance would not cause a substantial increase in public costs and the approval of the variance would not place the Subdivision in nonconformance with other adopted regulations.

A motion was made by Commissioner Murray that after reviewing the adopted findings of fact and the variance criteria, and after considering public testimony, to adopt a conclusion of law that the proposed subdivision variance request meet the variance criteria. The motion was seconded by Commissioner Hunthausen, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Murray that after reviewing the adopted findings of fact and conclusion on the variance criteria, and after considering public testimony, to approve the variance request as submitted by the applicant. The motion was seconded by Commissioner Hunthausen, the motion result was Passed with a vote of 2-0.

Commissioner Murray stated that he has reviewed the draft findings of fact for the proposed amendment to the final plat. Those draft findings touch on the following information: there is an existing 20-foot utility easement along the lot's northeast boundary, there is another easement along the south boundary, the 2005 Regulations required utility easements along all boundaries while current Regulations only require easements where needed, Northwest Energy sees no need for the easement, Northwest Energy supports its removal, other utilities were notified of the proposed change but didn't respond, three properties are located west of Lot 13-12, other easements are available for lots that are northeast and south of the lot and Utilities are also accessible for the lots to the west.

A motion was made by Commissioner Murray that after reviewing the draft findings of fact on the proposed amendment to the final plat and after considering public testimony, to approve of the findings as amended. The motion was seconded by Commissioner Hunthausen, and the motion result was Passed with a vote of 2-0.

Commissioner Murray stated that he has reviewed the adopted findings of fact, and after considering public testimony, moved to adopt a conclusion of law that the proposed amended plat will make adequate provision of utilities. The motion was seconded by Commissioner Hunthausen, and the motion result was Passed with a vote of 2-0.

Commissioner Murray stated that he has reviewed the draft conditions of approval that are intended to clarify changes related to access and utilities for Lot 13-12. Those draft approval conditions are as follows: an amended final plat shall be prepared showing the easement changes, the applicant shall provide proof of title and preliminary approval shall be in effect for three years with provision for extension.

A motion was made by Commissioner Murray that after reviewing the draft conditions of approval as amended, and after considering public testimony, to approve the conditions of approval as amended. The motion was seconded by Commissioner Hunthausen, the motion result was Passed with a vote of 2-0.

Commissioner Hunthausen stated that they have now adopted findings of fact and conclusions of law for the proposed plat amendment. They have also adopted conditions of approval that must be met prior to final platting. He asked if the Commissioners were prepared to act on the amended plat application as a whole.

A motion was made by Commissioner Murray that after reviewing the adopted findings of fact and conclusions of law, and the adopted conditions of approval, and after considering public testimony, to approve the amended plat request subject to the adopted conditions of approval. The motion was seconded by Commissioner Hunthausen, the motion result was Passed with a vote of 2-0.

Commissioner Murray stated that he has reviewed the draft findings of fact for the proposed amendment to the Subdivision Improvements Agreement. Those draft findings touch on the following information: the subdivision approval required utilities to be extended to all lots, the Regulations require them to be bonded if they are not installed prior to final plat, Northwest Energy has no comments this proposal, the applicant has extended utilities to all of the other lots, the applicant has requested a variance from this requirement for this lot, the reason for the variance is the large lot size and unpredictability of where utilities will be needed and the private covenants don't affect this proposal.

A motion was made by Commissioner Murray that after reviewing the draft findings of fact on the proposed amendment to the Subdivision Improvements Agreement and after considering public testimony, to approve the findings as submitted. The motion was seconded by Commissioner Hunthausen, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Murray that he has reviewed the adopted findings of fact, and after considering public testimony, to adopt a conclusion of law that the proposed amended Subdivision Improvements Agreement will make adequate provision of utilities. The motion was seconded by Commissioner Hunthausen and the motion result was Passed with a vote of 2-0.

Commissioner Murray stated that he has reviewed the draft condition of approval that is intended to clarify changes related to access and utilities for Lot 13-12. That draft approval condition is as follows: The SIA will be amended to make an exception for Lot 13-12 for extending utilities. After reviewing the draft condition of approval, and after considering public testimony, Commissioner Murray moved to approve the draft condition of approval. The motion was seconded by Commissioner Hunthausen, the motion result was Passed with a vote of 2-0.

Commissioner Hunthausen stated that the Commissioner has now acted on the variance request, and adopted findings of fact and conclusions of law for the proposed Subdivision Improvements Agreement amendment. The Commission has also adopted a condition of approval that changes the SIA accordingly.

Commissioner Murray stated that after reviewing the variance request, the adopted findings of fact and conclusions of law, the adopted condition of approval and after considering public testimony, he moved to approve the amended Subdivision Improvements Agreement request subject to the adopted condition of approval. The motion was seconded by Commissioner Hunthausen and the motion result was Passed with a vote of 2-0.

Board Appointment. (Eric Bryson)

Eric Bryson presented the board appointment and recommended the appointment of Melinda Hoskins to the Mental Health Local Advisory Board to a 4 year term that expires 6/30/19.

No public comment was received.

A motion to approve was made by Commissioner Murray and seconded by Commissioner Hunthausen, and the motion result was Passed with a vote of 2-0.

Lewis and Clark County Fireworks Ordinance Number 2015-1. (Eric Bryson)

Eric Bryson presented the Lewis and Clark County Fireworks Ordinance Number 2015-1. In 2011 an ordinance was drafted for enforcement of rules and regulations for fireworks use in County parks. This issue has come up again with the Lincoln Community and the request has come before the Commission. The ordinance is being presented to the Commission for first reading. The intention is to sign and notify patrons of a designated area for fireworks use. This would cover all County Parks and allow for them to designate areas for use of fireworks if they choose to. A second reading is schedule for May 26, 2015. K. Paul Stahl, Deputy County Attorney, stated that the potential punishment for violation of this ordinance is up to a \$500 fine.
No public comment was received.

A motion to approve was made by Commissioner Murray and seconded by Commissioner Hunthausen, and the motion result was Passed with a vote of 2-0.

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

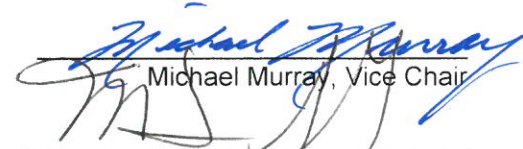
Adjourn

There being no further business, the meeting adjourned at 9:48 am.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Andy Hunthausen, Chairman

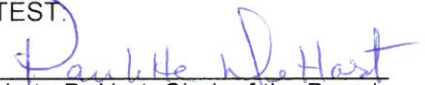


Michael Murray, Vice Chair



Susan Good Geise, Member

ATTEST.



Paulette DeHart, Clerk of the Board