



## **PUBLIC MEETING**

June 26, 2018  
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, June 26, 2018, at 9:00 AM in Commission Chambers Room 330.

### **Roll Call**

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

Commissioner Jim McCormick and Commissioner Susan Good Geise were present. Others attending all or a portion of the meeting included Roger Baltz, Cheryl Copenhaver, Mike Copenhaver, Paulette DeHart, Joyce Evans, Keith Hatch, Brandon Height, Nicho Hash, Peter Italiano, Valerie Jaffe, Ernie Lundberg, Renee Lundberg, Lindsay Morgan, Stephen O'Brien, Andrew Utick, Steve Utick, Sarah Woods, Audra Zacherl, and Nadine McCarty, Recording Secretary.

### **Pledge of Allegiance**

Everyone recited the pledge.

### **Consent Action Items**

- a. Resolution 2018-45 Declaring County Property Surplus Property. (Amy Reeves)

Roger Baltz reported on the consent action item 2 a and recommended approval.

No public comment was received.

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

### **Request for Proposal Award Recommendation for the Assembly of Four (4) Designated Snow Plow Trucks. (Audra Zacherl)**

Audra Zacherl, Assistant Director of Public Works presented the requested proposals from qualified professionals that can assemble the components (cab & chassis, plows, sand spreaders, hydraulics, lights, etc.) to build four designated snow plow trucks for the Road division. The RFP was advertised on June 3rd and 10th and two proposals were received and reviewed by committee in a meeting open to the public on Tuesday, June 19, 2018.

Factors used to evaluate the proposals included understanding the scope of work, specialized experience and technical competence, ability to meet schedule and budget, cost, and recent and current work.

Based on the scoring results, the committee recommended that the County enter into contract negotiations with 3-V Distributing, Inc. (3-V) of Conrad, Montana for the assembly of the four designated snow plows. The price per truck will be \$29,220 with a total of \$116,880 for all four,

not including the catwalks. Staff still needs to evaluate different options for the catwalk configuration to determine the best option. Budget authority for the purchase is in the FY18 and FY19 road capital fund. Staff recommends approval of the contract.

Ms. Zacherl stated in the past snow plows have been purchased by piggybacking on a contract with the state. A couple months would be spent modifying the trucks to meet the Road Department's purposes as there is a difference between the plows used on the highway, within the city limits, and those used by the county. There are a variety of roads and conditions the plows have to work under. The road department has reviewed how they want to build the trucks and it was found this is the best way. This is the first time doing the process this way. It has been found that the trucks will be better with hopes it will last longer and are currently under budget.

No public comment was receive.

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

**Contract Between Lewis and Clark County and Kadrmas, Lee and Jackson, Inc. (Audra Zacherl)**

Audra Zacherl, Assistant Director of Public Works presented the contract with Kadrmas, Lee & Jackson, Inc. (KLJ) for on-call engineering services for Public Works, Road and Community Development and Planning. Work will generally consist of preliminary engineering reports, cost estimates, road surface analysis, road design and plan development, traffic analysis, construction oversight, surveying, general site and civil engineering, etc. The contract requires executed task orders for each project assigned by the County and will be for a seven year period.

A Request for Qualifications was advertised and eleven responses were reviewed and scored. Of the eleven, five were chosen for contracts. This contract is the last of those five. Staff recommends approval of the seven-year, on-call contract.

No public comment was received.

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

**Contract Between Lewis and Clark County Fairgrounds and Montana Internet Corporation. (Keith Hatch)**

Keith Hatch, Fairgrounds Manager presented the contract with Montana Internet Corporation in the amount of \$5,852.49 to upgrade the licensing on the Access Point Controller, add coverage to the Multi-Purpose Building, add coverage to the grandstands for 1500 concurrent connections, and upgrade the access points in the hospitality room and announcer's booth. The funds are for the equipment cost with no labor costs. The upgrade will increase the access points from five to eleven. Work is to be completed within 30 days from the date of approval. Staff recommends approval of the contract.

Mr. Hatch gave an overview on the experienced issues related to the poor internet access in some areas of the fairgrounds.

No public comment was received.

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

**Resolution 2018-46 Canceling Uncalled Warrants Drawn on US Bank of Helena with a Date of Issuance Between July 1, 2016 and June 30, 2017 from the Fairgrounds Fund. (Sarah Woods)**

Sarah Woods, Accounting Clerk presented the resolution canceling uncalled warrants drawn on US Bank of Helena with a date issuance between July 1, 2016 and June 30, 2017 from the Fairgrounds Fund No. 719. Upon approval of the resolution the funds will be deposited into the County's General Fund and the county will be liable for the payments. In the future if a check presents, the staff will verify it had been canceled and payment will be reissued. Staff recommends approval of the resolution.

No public comment was received.

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

**Resolution 2018-47 Canceling Uncalled Warrants Drawn on US Bank of Helena with a Date of Issuance Between July 1, 2016 and June 30, 2017 from the Treasurer's Office Accounting Department. (Sarah Woods)**

Sarah Woods, Accounting Clerk presented the resolution canceling uncalled warrants drawn on US Bank of Helena with a date issuance of July 1, 2016 and June 30, 2018 from the Treasurer's Office Accounting Department. The primary use of the checking account is to issue refunds for over payments. The Accounting Department attempted to contact the customers inquiring about the check and in many cases with no response. Upon approval of the resolution the funds will be deposited into the County's General Fund and the county will continue to be liable for the payments. Staff recommends approval of the resolution.

No public comment was received.

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

**Resolution 2018-48 Canceling Uncalled Warrants Drawn on US Bank of Helena with a Date of Issuance Between April 30, 2015 and June 30, 2017 from the PureView Fund. (Sarah Woods)**

Sarah Woods, Accounting Clerk presented the resolution canceling uncalled warrants drawn on US Bank of Helena with a date issuance between July 1, 2016 and June 30, 2017 from the PureView Fund No. 692. This is the first time checks have been canceled for PureView resulting in a larger list of checks. The names have been withheld for HIPAA reasons and PureView will handle the checks. Upon approval of the resolution the funds will be deposited into the County's General Fund and the county will continue to be liable for the payments. Staff recommends approval of the resolution.

No public comment was received.

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

**Resolution 2018-49 Canceling Uncalled Warrants Drawn on US Bank of Helena with a Date of Issuance Between July 1, 2016 and June 30, 2017 from the County Clerk's Office. (Sarah Woods)**

Sarah Woods, Accounting Clerk presented the resolution canceling uncalled warrants drawn on US Bank of Helena with a date issuance between July 1, 2016 and June 30, 2017 from the County Clerk's Office. Upon approval of the resolution the funds will be deposited into the County's General Fund and the county will continue to be liable for payments on the checks. Staff recommends approval of the resolution.

No public comment was received.

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

**Resolution 2018-50 Canceling Uncalled Warrants Drawn on US Bank of Helena with a Date of Issuance Between July 1, 2016 and June 30, 2017 from the Sheriff's Commissary Fund. (Sarah Woods)**

Sarah Woods, Accounting Clerk presented the resolution canceling uncalled warrants drawn on US Bank of Helena with a date issuance between July 1, 2016 and June 30, 2017 from the Sheriff's Commissary Fund No. 703. Upon approval of the resolution the funds will be deposited into the County's General Fund and the county will continue to be liable for the payments. Staff recommends approval of the resolution.

No public comment was received.

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

**Resolution 2018-51 Canceling Uncalled Warrants Drawn on US Bank of Helena with a Date of Issuance Between July 1, 2016 and June 30, 2017 from the Justice Court. (Sarah Woods)**

Sarah Woods, Accounting Clerk presented the resolution canceling uncalled warrants drawn on US Bank of Helena with a date issuance between July 1, 2016 and June 30, 2017 from the Justice Court. After approval of the resolution the funds will be deposited into the County's General Fund and the county will continue to be liable for the payments. Staff recommends approval of the resolution.

No public comment was received.

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

**Creation of Boundaries for Proposed Special Zoning District No. 50. (Planner: Lindsay A. Morgan)**

Lindsay Morgan, Planner III presented the petition to create landowner-initiated (Part I) Special Zoning District No. 50 also known as the East North Hills Planning and Zoning District located east of and adjacent to Ferry Drive, south of and adjacent to Tea Road and the east and south boundaries follow property boundaries as displayed in Exhibit A.

To initiate the process of creating the district, MCA 76-2-101 requires a minimum of 60 percent of all landowners within a proposed district to sign a petition and that there be a minimum of 40 acres within the boundaries of a proposed district. Approximately 78 percent of landowners have signed the petition and approximately 120 acres would be included within the proposed district.

The purposes of the District are meant to be consistent with the adjacent Special Zoning District No. 49, Valley View Heights Neighborhood Plan and Development Pattern, and the policy recommendations of the Lewis and Clark County Growth Policy and the updated Helena Valley Area Plan. The regulations are intended to accommodate and protect the use of low-density, single-family dwelling units and associated agricultural land uses, to promote groundwater protection and conservation, limit increases in traffic on the road network to the capacity of those roads, limit increases in the demand for rural fire protection services based on the limitations of those services, preserve the rural residential character of the area, enhance the aesthetic character, protect public health, safety, and welfare, and protect property values of the area.

The proposed permitted uses include single-family dwellings, with only one per parcel; accessory uses that would include private garages, corrals, and stables, etc; agriculture; group homes, only one per parcel; home day cares; and home occupations. The proposed minimum parcel size would be 10 acres.

Ms. Morgan gave an overview on the process of establishing a zoning district and its regulations highlighting the three steps: the creation of the district's boundaries (current action); the adoption of the district's neighborhood plan/development pattern; and the adoption of the district's regulations. Each step requires a review and decision by either the Planning and Zoning Commission or the County Commission, or both. Public input will be received and considered during each step of the process.

Should the County Commission decide to create the District, a 30-day protest period would begin from the date of the decision. In order to protest, all landowners with an interest in a property must sign the protest. When landowners own multiple properties properly protest, the protest will apply to all parcels owned by them. If landowners represent 50 percent of the titled property ownership in the District protest the Commission's vote to create the District within 30 days protest period, the District cannot be established. If the proposed district is not protested out during the protest period the County Commission would at a later meeting following the protest period consider adopting a resolution to create the district boundaries.

Ms. Morgan noted there are three types of zoning under Montana law: created citizen-initiated zoning; county-initiated zoning; and municipal zoning. The process for citizen-initiated zoning is a minimum of fifteen days prior to the public meeting: post three signs within the district boundaries; notice in the newspaper twice showing the boundaries of the proposed district. All adjacent property owners were also noticed by letter fifteen days prior to the public meeting.

#### PUBLIC COMMENT -

Valerie Jaffe, 2623 Tea Road stated they are the most western property of 20 acres. Ms. Jaffe read the letter that she submitted to the Commission and noted the leadership of the adjacent Special Zoning District 49 produced zone regulations that addressed similar concerns and preferences of the proposed Special Zoning District No. 50 and was a guide for their proposal; they embrace the recommendations in the Lewis and Clark Growth Policy and the Helena Valley Area Plan; they agree with the County's zoning intentions to preserve and protect what is valued in the Valley View Heights neighborhood, including the need to protect limited groundwater resources; asked for acknowledgement of the concerns on over development by approving the proposed zoning boundaries.

They expected by this time a zoning discussion would have already occurred. Being that it has not yet occurred; this is their best effort to plan ahead and accommodate what is intended over all for the valley. The hope is to be allowed to move forward prior to the overall county plan.

Steve Utick, 2950 Fantasy Road, speaking on behalf of his father who owns one of the parcels in the proposed boundary. Mr. Utick stated originally their family had 56 20 acre lots in the area of which 32 of the lots are encompassed in District No. 49 with the other 24 are on the other side of which 6 are in the proposed district.

Mr. Utick stated in the proposed zoning district they are proposing to allow home businesses, group homes, etc. and in his opinion will increase the traffic in the area. There are three lots to the east of the boundary, one 20 acres and two 10 acres that were excluded from the proposed district. The lots belong to his father, his sister and himself and it is believed they were purposely excluded as they knew the votes would be against the district. The water in the area flows from north to south and the properties are to the east and the west of his father's property that he proposes to subdivide. The lots would not be affected by any water as most of the lots are upgradient from his father's lot. This came about after his father's application to subdivide his property and he thinks this is trying to use zoning as a weapon to get around the subdivision process that the county has in place.

Andy Utick, Attorney representing his brother asked that the Commission disregard paragraph one of his memorandum as Ms. Morgan pointed out that the process is different for citizen-initiated zoning and county-initiated zoning. However, the other two points are valid and regardless of how the process is initiated the county cannot limit existing covenants by zoning regulations and he thinks that is prohibited. Mr. Utick believes this is spot zoning, it is referenced in his memorandum and does not intend on repeating.

Mike Copenhaver, 2723 Tea Road stated he is directly to the east of the proposed subdivision and he has had three wells drilled on his property, two of which are dry. The existing well has a reducer that only allows three gallons a minute. The pump is at the bottom of where the water is and if it goes lower another well will need to be drilled. Mr. Copenhaver is not trying punish anyone, but is more concerned about his water and it running out. He knows it is limited.

Commissioner Hunthausen reiterated discussion needs to be on the proposal. If there is further comment about the proposal previous speakers can come forward.

Joyce Evans, 2276 Tea Road stated she lives in District No. 49 and she spearheaded that effort. Ms. Evans pointed out that when they did their zoning it was found that zoning does take precedence over existing covenants. Ms. Evans noted she initially spoke with people about the proposed District No. 50 and what they did for District No. 49 but she did not have enough time or energy to do all that needed to be done as she was dealing with issues in District No. 49 due to disinformation. If she would have been able to do the side work District No. 50 probably would have been included five years ago. Ms. Evans understands the water issues as they are still having some water issues on some of the parcels on the west side of District No. 49 and she would support the zoning at this point.

Ms. Morgan stated a pre-application meeting was conducted a few months ago regarding the subdivision of four properties that were owned by Mr. Utick, one of which being the property that is located within the proposed district. Following the meeting she had discussions with Ms. Jaffe about water concerns in the area and zoning.

Ms. Morgan is not certain about the timing of the application, it is possible the zoning application might have come in first or possibly they came in around the same time. The zoning petition came in on May 25, 2018 and she believes the subdivision application is currently in sufficiency review.

Ms. Morgan stated the property is located within a rural growth area and referenced the Helena Valley Area Plan five key issues of why areas would be considered rural growth areas and one of the issues being water availability. The studies are not done in the area to determine why wells are dropping. There is a hydrogeologist looking into the complex issue.

In reference to the conflict between existing covenants and zoning precedence, Ms. Morgan is not aware of anything in state law that discusses covenants and it would have to be reviewed further. In the past if a property is encumbered by both zoning and covenants the more stringent applies. Ms. Morgan noted after receipt of a subdivision application the county has five working days to determine if an application is complete or incomplete. If it is complete it moves to a fifteen working day sufficiency review period. If deemed both complete and sufficient prior to the adoption of zoning regulations, step three of the zoning process, it would be considered a grandfathered proposal and would be allowed to move forward. If the Commission denied the proposal it is no longer grandfathered. If the Commission grants preliminary approval and the preliminary approval expires it is no longer grandfathered and would have to come in under whatever the new zoning regulations would be. As long as approvals are kept with an application deemed complete and sufficient prior to the adoption of zoning regulations the proposal would be allowed to come to fruition.

Ms. Morgan gave an overview of the process when the boundaries for Special District No. 49 were created in 2013; the citizen-initiated zoning district would have similar regulations to the proposed

Rural Growth Area zoning. A meeting was held at one of the fire districts and a proposed neighborhood plan for the district was discussed. The citizens attended and expressed concerns or gave additional input. Additional changes were implemented into the neighborhood plan prior to going before the Planning and Zoning Commission for adoption. The regulations done at the same time reflected what was listed in the neighborhood plan. The proposal now would be very similar to Special Zoning District No. 49 and the proposed Rural Growth Area Zoning, which are not finalized.

Commissioner Good Geise noted even though the landowners are the initiators of the zoning proposal the result might not be everything that was intended. Ms. Morgan noted when District No. 49 was proposed the citizens were looking for 20 acre minimum lot sizes. Some people wanted twenty, some five and in 2015 when the Helena Valley Area Plan was adopted the decision was rural growth areas would be at 10 acres.

Commissioner Hunthausen noted there has been a lot of discussion and have gotten a little off track though related. A decision will not be made today.

Commissioner Hunthausen asked if there are any time restrictions. Ms. Morgan noted there are no restrictions under state law with regard to the decision.

A motion was made by Commissioner McCormick to table the item and consider a decision on July 10, 2018 at the regularly scheduled meeting and 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.**

Brandon Height, Scoutmaster for Troop 209 stated most of the scouts reside in the valley and this is an issue some of them are sensitive to. They thanked the Commission for the explanation on the details. The eight scouts introduced themselves. They are working on the citizenship in the community badge.

**Adjourn**

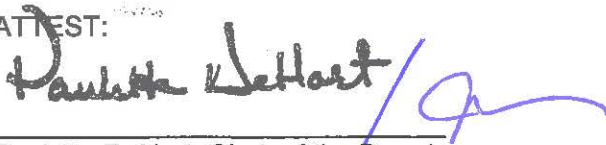
There being no further business, the meeting adjourned at 10:25 am.

LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

  
Andy Hunthausen, Chair  
Jim McCormick, Vice Chair

Susan Good Geise, Member

ATTEST:

  
Paulette DeHart, Clerk of the Board