



## **PUBLIC MEETING**

June 30, 2015  
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, June 30, 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, Gary Nelson, Colette Anderson, Tim Magee, Paulette Dehart, Tamrah Chatriand, Paul Spengler, Bob Drake, Drenda Niemann, Greg McNally, Lindsay Morgan, and Nichole Nisbet, Recording Secretary.

### **Pledge of Allegiance**

Everyone recited the pledge.

### **Consent Action Items**

- a. Resolution 2015-95 Declaring County Property Surplus Property. (Amy Reeves)
- b. Resolution 2015-96 Declaring County Property Surplus Property. (Amy Reeves)
- c. Resolution 2015-85 To Establish Locations for Posting Public Notice. (Eric Bryson)

Eric Bryson reported on the consent action items 2 a-c and recommended approval.

No public comment was received.

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

### **Resolution 2015-91 Canceling Uncalled Warrants Drawn on US Bank of Helena with a Date of Issuance Between July 1, 2013 and June 30, 2014 From the County Clerk's Office Pursuant to Section 7-6-2607, MCA. (Tamrah Chatriand)**

Tamrah Chatriand, Accountant for Lewis & Clark County Treasurer's Office, presented the resolution canceling uncalled warrants drawn on US Bank of Helena with a date of issuance between July 1, 2013 and June 30, 2014 from the County Clerk's Office pursuant to section 7-6-2607, MCA. The warrants are being cashed and moved into the general fund.

No public comment was received.

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

### **Resolution 2015-92 Canceling Uncalled Warrants Drawn on US Bank of Helena with a Date of Issuance Between July 1, 2013 and June 30, 2014 from the Fairgrounds Fund #719 Pursuant to Section 7-6-2607, MCA. (Tamrah Chatriand)**

Tamrah Chatriand, Accountant for Lewis & Clark County Treasurer's Office, presented the resolution canceling uncalled

warrants drawn on US Bank of Helena with a date of issuance between July 1, 2013 and June 30, 2014 from the Fairgrounds Fund #719 pursuant to section 7-6-2607, MCA. These funds include stall rentals or deposits.

No public comment was received.

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

**Resolution 2015-93 Canceling Uncalled Warrants Drawn on US Bank of Helena With a Date of Issuance Between March 17, 2014 and June 30, 2014 From the Sheriff's Commissary Fund #703 Pursuant to Section 7-6-2607, MCA. (Tamrah Chatriand)**

Tamrah Chatriand, Accountant for Lewis & Clark County Treasurer's Office, presented the resolution canceling uncalled warrants drawn on US Bank of Helena with a date of issuance between July 1, 2013 and June 30, 2014 from the Sheriff's Commissary Fund #703 pursuant to section 7-6-2607, MCA.

No public comment was received.

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

**Resolution 2015-94 Canceling Uncalled Warrants Drawn on US Bank of Helena With a Date of Issuance Between July 1, 2012 and June 30, 2014 from the Treasurer's Office Accounting Department Pursuant to Section 7-6-2607, MCA**

Tamrah Chatriand, Accountant for Lewis & Clark County Treasurer's Office, presented the resolution canceling uncalled warrants drawn on US Bank of Helena with a date of issuance between July 1, 2013 and June 30, 2014 from the Treasurer's Office Accounting Department pursuant to section 7-6-2607, MCA.

No public comment was received.

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

**Task Order 16-07-3-01-009-0 to Lewis & Clark County for Cancer Control. (Drenda Niemann)**

Drenda Niemann, Community Health Promotion Division Administrator, presented the task order between Lewis & Clark Public Health and the Montana Department of Public Health and Human Services for the Asthma Control Program FY16 in the amount of \$32,000. The task order is effective July 1, 2015 through June 30, 2016. The program implements breast and cervical screening services, patient guidance and prevention through early detection of cancer in the general population.

No public comment was received.

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

**Task Order 16-07-3-01-086-0 to Lewis & Clark County for the Asthma Control Program. (Drenda Niemann)**

Drenda Niemann, Community Health Promotion Division Administrator, presented the task order between Lewis & Clark Public Health and the Montana Department of Public Health and Human Services for the Asthma Control Program FY16 in the amount of \$32,000. The task order is effective

July 1, 2015 through June 30, 2016. The program allows the Health Department to continue asthma home visiting services.

No public comment was received.

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

**Grant Award to Lewis & Clark County for the Hazard Mitigation Grant Program. (Paul Spengler)**

Paul Spengler, DES Coordinator, presented the Hazard Mitigation Grant award in the amount of \$493,866.00 to Lewis & Clark County for the Trap Club Flood Mitigation Project. The grant period ends June 30, 2016.

No public comment was received.

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

**Resolution 2015-90 Authorizing the Expenditure of Funds for Road Improvements on Applegate Drive, between Lincoln Road and Jeanne Road. (Lindsay A. Morgan)**

Lindsay Morgan, Planner II, presented the resolution authorizing the expenditure of funds for road improvements on Applegate Drive, located between Lincoln Road and Jeanne Road. According to Condition of Approval No. 10 for the Amended Plat of Lots 11B2A-3, 4 and 5 of Big Valley Subdivision, the applicant, Larry Kim Smith, was required to pay for the subdivision's' impact on this section of the Applegate Drive upon final approval. Upon final approval of this subdivision on January 31, 2013, the applicant made a contribution of \$12,230 and this money was placed in a restricted cash account. On June 26, 2014, the Commission approved of the transfer of a portion of this money to the County Public Works Department in the amount of \$8,110.41 for safety improvements completed on this section of Applegate Drive. After the transfer of these funds, \$4,119.59 remains in this account. The County Public Works Department is now requesting that the remaining funds in the account be transferred over to them, as they plan to complete additional safety improvements to this section of the road. These improvements include the installation of better signage and the placement of additional gravel on the road's surface. Because the funds are to be used within three years of final subdivision approval, this money must be utilized for the required purposes no later than January 31, 2016.

No public comment was received.

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

**Road Agreement between Lewis & Clark County and Canyon Ferry Crossing Inc. (tabled 6/23/15) (Applicant: Canyon Ferry Crossing Inc.) (Planner: Lindsay A. Morgan)**

Lindsay Morgan, Planner II, presented the applicant's request to modify the road agreement, which currently requires improvements to a section of Magpie Gulch Road. On Tuesday, June 23, 2015 the public meeting was held on this request and today is decision day.

A motion to rescind the road agreement was made by Commissioner Murray. The motion was seconded by Commissioner Geise, the motion Passed on a 3-0 vote.

**Modification Request for the Canyon Ferry Crossing Subdivision V. (tabled 6/23/15) (Applicant: Canyon Ferry Crossing Inc.) (Planner: Lindsay A. Morgan)**

Lindsay Morgan, Planner II, presented the modification request for the Canyon Ferry Crossing Subdivision V. The applicant is requesting modifications to the following conditions of approval: 1. Condition No. 7.e regarding the requirement to create a Rural Maintenance District (RID) for maintenance of the fire protection system; 2. Condition No. 10 regarding the requirement to create an Rural Improvement District (RID) for maintenance of the roads; and 3. Condition No. 11.a regarding the requirement to pay cash in-lieu of dedicating parkland. In addition to modifying the three existing conditions, the applicant has requested a variance from Chapter XI.H.7 of the 2007 County Subdivision Regulations, which requires the formation of an RID for maintenance of the roads.

Commissioner Geise asked for clarification that these conditions have been in place since 2008.

Lindsay Morgan stated that is correct.

Commissioner Geise stated that these conditions were agreed to and she does not see a need to modify these conditions as there was a lot of input and comments received to deny the request.

Commissioner Hunthausen stated there was a request for public comment.

Michele Peterson-Cook stated that you can take additional public comment however it is clear you did close the public comment before.

#### PUBLIC COMMENT-

Gary Nelson, Canyon Ferry Crossing Board representative and resident of the subdivision, provided the Commission a letter that was also received via e-mail. The modifications were not discussed with the Home Owner's Association.

Commissioner Hunthausen stated that the information received is not new as we have received the letter previously.

A motion was made by Commissioner Geise to deny the request for modifications to the conditions of approval. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Break/reconvene.

#### **Proposed Canyon Ridge Major Subdivision. (tabled 6/16/15) (Applicant: T&M Planning Group) (Planner: Greg McNally)**

Greg McNally, Planner II, presented the proposed Canyon Ridge Major Subdivision. The proposed subdivision is located south of and adjacent to Canyon Ferry Road. The applicant proposes to divide the existing 160.01 acre tract of land into 129 lots: 123 lots for one single-family residential use; 5 lots for open space; and 1 lot for County parkland. The proposed subdivision will occur in three phases. The Planning Board had their hearing on May 19th and made a recommendation on May 26th to approve the proposed subdivision with amended findings of fact and subject to the draft conditions of approval in the staff report. Amended findings of fact touch on impacts on agriculture, impacts on local service, impacts on natural environment and the impacts on wildlife. The Planning Board did recommend approval of all four variance applications. Two letters of written testimony were received that expressed concerns in regards to wildlife, need for fire protection on site, concerns of the safety on Canyon Ferry Road and the use of individual wells.

Commissioner Geise asked if the applicant has been able to review the public record and is okay with moving forward.

Commissioner Hunthausen stated that the applicant has nodded yes and acknowledges he is ready to move forward.

Commissioner Hunthausen stated that the Commission has reviewed the staff report, variance requests, the presentations by staff and the applicant, and the draft findings of fact and conclusions of law and

approval conditions. He asked if the Commission is prepared to make a motion to approve, conditionally approve, or deny the request for subdivision approval.

A motion was made by Commissioner Geise that after reviewing the staff report, variance requests, 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 at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the subdivision request with conditions of approval needed to mitigate adverse impacts or bring the project into compliance with regulations. The motion was seconded by Commissioner Murray.

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

Commissioner Geise stated that she has reviewed the draft findings of fact for the variance request. Those draft findings touch on the following information: Lot 125 is three times longer than its width, Lot 125 is to be County parkland, Lots 126 through 129 also don't meet the lot length to width ratio, those lots are proposed open space, the sizes of the lots range from a little less than 1 acre to just over 5 acres, Lots 125 through 129 have road access, there will be 20 foot trail easements in Phase I, there will be 20 foot trail easements in Phase II, there will be a 20 foot trail easement in Phase III, a portion of the trail system will be constructed prior to final plat of Phase III and the proposed narrow lots facilitate connectivity of the trail network.

A motion was made by Commissioner Geise that after reviewing the draft findings of facts on the first variance request and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she 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. The approval of the variance would not place the subdivision in nonconformance with other adopted regulations.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and the variance criteria, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision variance request meets the variance criteria. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and our conclusion on the variance criteria, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the variance request as submitted by the applicant. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Hunthausen asked the Commission if anyone prepared to make a motion on the findings of fact for the second variance request.

Commissioner Geise stated that she reviewed the draft findings of fact for the variance request. Those draft findings touch on the following information: the applicant is proposing a block that is about 400 feet longer than the 1600 ft. maximum, that block will have a 20-foot trail easement crossing it in Phases I and III, another trail easement will connect roads in Phase I to roads in Phase III, the trails will be constructed for final plat of Phase III, the proposed trail layout allows park access without crossing roads and meeting the block length standard would defeat that goal.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact for the variance and considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she reviewed the 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. The approval of the variance would not place the subdivision in nonconformance with other adopted regulations.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and the variance criteria, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision variance request meets the variance criteria. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and our conclusion on the variance criteria, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the variance request as submitted by the applicant. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Hunthausen asked the Commission is prepared to make a motion on the findings of fact for the third variance request.

Commissioner Geise stated that she reviewed the draft findings of fact for the variance request. Those draft findings touch on the following information: a new intersection doesn't align with an existing one across Canyon Ferry Road, an existing utility pole is preventing alignment, Northwestern Energy confirmed that moving the pole would be a major undertaking, engineering analysis has confirmed clear sight distances at the intersections, engineering analysis has verified that there will be no turning movement conflicts, the applicant will need approach permits from MDT, the applicant has applied for those permits and MDT has accepted the proposed alignment.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact for the variance and considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she 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. The approval of the variance would not place the subdivision in nonconformance with other adopted regulations.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and the variance criteria, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision variance request meets the variance criteria. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and our conclusion on the variance criteria, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the variance request as submitted by the applicant. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Hunthausen asked the Commission if anyone prepared to make a motion on the findings of fact for the fourth variance request.

Commissioner Geise stated that she reviewed the draft findings of fact for the variance request. Those draft findings touch on the following information: the regulations require a water system capacity of 750 gpm for fire protection, the proposal will utilize an off-site water source with almost 1000 gpm, using that off-site system will require a permit from MDT for boring under Canyon Ferry Rd, the owner of the off-site system has given written permission to connect to it, the Fire Department would not accept the off-site source if it required laying hoses across Canyon Ferry Road (it will be piped under the road), the regulations require formation of an RID for maintenance of the fire protection system, the existing system is privately owned and maintained and is regularly tested by the Fire Department.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact for the variance and considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she 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. The approval of the variance would not place the subdivision in nonconformance with other adopted regulations.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and the variance criteria, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision variance request meets the variance criteria. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and our conclusion on the variance criteria, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the variance request as submitted by the applicant. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that the record reflects the approval of the variances. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Hunthausen stated that the Commission has now processed the variance requests and move on to consideration of the findings of fact, conclusions of law, approval conditions, and a decision on the application as a whole. Is anyone prepared to make a motion on the draft findings and conclusions for agriculture?

Commissioner Geise stated that she reviewed the draft findings of fact for the impacts of the proposed subdivision on Agricultural Lands and Agricultural Operations. Those draft findings touch on the following information: the two soil types and three soil mapping units on the property, the percentages of the

project site covered by those three soil units, the first of the two soil types being prime farmland when irrigated, the second of the two soil types being farmland of statewide significance, the use and management parameters for that soil type, the use and management parameters for the third soil unit, the current use of the land as open range rather than field crops, the proximity of agricultural uses in the area, the proximity of the Helena Valley Irrigation Canal (1600 feet), the lack of existing water rights on the property, staff has identified adverse impacts to agriculture that can be mitigated through approval conditions.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on Agricultural Lands and Agricultural Operations and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on Agricultural Lands and Agricultural Operations.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the adverse impacts of the proposed subdivision on Agricultural Lands and Agricultural Operations can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she reviewed the draft findings of fact for the impacts of the proposed subdivision on Local Services related to wastewater. Those draft findings touch on the following information: The proposed means of wastewater disposal, the soil mapping of the site and limitations for on-site wastewater disposal, site evaluations for the lots were done in 2015, all proposed lots can meet groundwater separation requirements, the projected phosphorus loading time frame, the requirement for DEQ approval of the wastewater systems and subdivision, the DEQ application has been submitted and concerns of the Conservation District over the proposed development density has been noted.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on impacts on wastewater, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she reviewed the draft findings of fact for the impacts of the proposed subdivision on Local Services related to water. Those draft findings touch on the following information: the proposed means of water supply is individual wells, the effects of a recent court decision on exempt wells and water rights, recent legislation that granted continued exemptions to applications in process, confirmation that this project was granted continued exemption status, hydrological testing that confirmed water availability to meet DEQ standards but indicted potential risk of groundwater depletion of the aquifer, input from the Water Quality Protection District hydrologist stating the need for groundwater monitoring and a contingency plan, recognition by the Water Quality Protection District hydrologist that the Regulating Reservoir recharges aquifers in this area, which reduces the risk of depletion, the requirement for DEQ approval of the water supply and subdivision and a letter from DEQ indicating adequacy of the water supply and their intent to limit irrigation and require deeper wells.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on impacts on water, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.



Commissioner Geise stated that she reviewed the draft findings of fact for the impacts of the proposed subdivision on solid waste and mail delivery. Those draft findings touch on the following information: the property is in the Scratch Gravel Solid Waste District, a mailbox turnout is proposed for the subdivision in Phase I and prior to final plat approved mailbox installation is required.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on impacts on solid waste and mail delivery, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she reviewed the draft findings of fact for the impacts of the proposed subdivision on utilities. Those draft findings touch on the following information: utilities are adjacent and available to the subdivision, all additional utilities must be placed underground and comments on the need for transformer easements were submitted by Northwest Energy.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on impacts on utilities, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she reviewed the draft findings of fact for the impacts of the proposed subdivision on traffic. Those draft findings touch on the following information: the project is just south of and abutting Canyon Ferry Road, the project will create two new intersections on Canyon Ferry Rd about 1000 feet apart, there are no reasonable alternatives to accessing the State highway, Canyon Ferry Road is a major collector, the posted speed limit on this section is 60 mph, Canyon Ferry Road at this location is 2 lanes with 42 feet of pavement, the road right of way varies between 150 and 200 feet, Canyon Ferry Road has a designated bike lane, the internal subdivision roads will be paved local roads, apart from the two new intersections, access along Canyon Ferry Road will be restricted, MDT approach permits will be required for those new intersections, the applicant has applied for those State permits, MDT has reviewed the applications and provided the applicant with comments, one of the intersections doesn't align with a street across Canyon Ferry Road which the variance was approved, engineering analysis has verified that there will be no turning movement conflicts at that intersection, engineering analysis has confirmed clear sight distances at the intersections, the Traffic Impact Study (TIS) has projected daily trip generation from the project, the TIS also predicts traffic distributions on Canyon Ferry Road and Lake Helena Drive, the TIS evaluated the level of service impacts of the new traffic on nearby intersections, levels of traffic service will be acceptable for all nearby intersections after full build out, no offsite road improvements are required for this project and the County had an engineering peer review of the applicant's traffic analyses.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on impacts on traffic, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she reviewed the draft findings of fact for the impacts of the proposed subdivision on schools. Those draft findings touch on the following information: the subdivision will be in the East Helena School District, the project will generate about 185 students, the School District did not comment on the project and the applicant is proposing a bus turnout in Phase I.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on impacts on schools, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she reviewed the draft findings of fact for the impacts of the proposed subdivision on emergency services. Those draft findings touch on the following information: the project is 10 miles from St. Peter's Hospital, the project is 11 miles from the Sherriff's Department, the property is in the Tri-Lakes Fire Service Area, the property is about 4 miles from a fire station, the regulations require a water system capacity of 750 gpm for fire protection, the proposal will utilize and off-site water

source with almost 1000 gpm, using that off-site system will require a permit from MDT for boring under Canyon Ferry Road, the owner of the off-site system has given written permission to connect to it, the Fire Department would not accept the off-site source if it required laying hoses across Canyon Ferry Road (it will be piped under the road) and the applicant has been granted the variance from the requirement to form an RID to maintain the fire protection system water supply.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on impacts on emergency services, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she reviewed the draft findings of fact for the impacts of the proposed subdivision on parks. Those draft findings touch on the following information: The applicant is proposing a 5-acre park and cash in-lieu of parkland, the parkland requirement is 7.5 acres, a market appraisal has established a value for the cash in lieu of payment —No. 64 The Parks Board recommended acceptance of the applicant's proposal, the closest undeveloped parkland is 2.5 miles from the project and the closest developed parkland is 3.5 miles from the project.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on impacts on parks, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she reviewed the draft findings of fact for possible mitigation of the impacts of the proposed subdivision on all local services. Those draft findings touch on the following information: staff has identified negative impacts on local services that can be mitigated with numerous approval conditions.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on mitigation of impacts on local services, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the finding on mitigation of impacts as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Hunthausen stated that the Commission has now reviewed and adopted findings of fact for impacts on all local services. We must again make conclusions on whether there will be adverse impacts on local services and whether those impacts can be mitigated through approval conditions. Is anyone prepared to make motions on the conclusions on adverse impacts to local services.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on Local Services. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the adverse impacts of the proposed subdivision on Local Services can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she reviewed the draft findings of fact for possible mitigation of the impacts of the proposed subdivision on the natural environment. Those draft findings touch on the following information: the proposed means of water supply is individual wells, hydrological testing that confirmed water availability to meet DEQ standards but indicted potential risk of groundwater depletion

of the aquifer, input from the Water Quality Protection District hydrologist stating the need for groundwater monitoring and a contingency plan, recognition by the Water Quality Protection District hydrologist that the Regulating Reservoir recharges aquifers in this area, which reduces the risk of depletion, site evaluations for the lots were done in 2015, all proposed lots can meet groundwater separation requirements, the projected phosphorus loading time frame, the requirement for DEQ approval of wastewater , water supply, and subdivision, concerns of the Conservation District over the proposed development density, concerns for air quality of auto emissions, dust from roads, and wood stoves, erosion potential of soils on the site, the need for a State erosion control permit, the need for a weed control permit, concerns of the Conservation District over invasive weeds, concerns for visual impacts of utility lines and area lighting and staff has identified impacts to natural resources that can be mitigated through approval conditions.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on the Natural Environment, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on the Natural Environment. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the adverse impacts of the proposed subdivision on the Natural Environment can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she reviewed the draft findings of fact for the impacts of the proposed subdivision on the Wildlife and Wildlife Habitat. Those draft findings touch on the following information: the Montana Natural Heritage Program has identified sitings of species of concern in the vicinity, staff observed wildlife during a site visit, the applicant's EA argues that the project's open space protects habitat, staff has identified no potential adverse impacts on the Wildlife and Wildlife Habitat that require mitigation.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on the Wildlife and Wildlife Habitat, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not have adverse impacts on Wildlife and Wildlife Habitat. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she reviewed the draft findings of fact for the impacts of the proposed subdivision on the Public Health and Safety. Those draft findings touch on the following information: the property is not located in a floodplain area, there is some potential for groundwater contamination that can be addressed through proper septic system installation and maintenance, there are radon risks that can be mitigated through dwelling design, there is an earthquake fault in the vicinity, the area has a low fuel hazard rating for wildfires, a stormwater management plan is required that addresses drainage for the development, staff has identified potential adverse impacts on the Public Health and Safety that can be mitigated.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on the Public Health and Safety, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on Public Health and Safety but they can be mitigated through the proposed conditions of approval. (The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she reviewed the draft findings of fact for the impacts of the proposed subdivision on the Cultural Resources. Those draft findings touch on the following information: no historical resources have been identified, the potential for cultural resources at the site is low, staff has identified no potential adverse impacts on Cultural Resources that require mitigation.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on the Cultural Resources, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not have adverse impacts on Cultural Resources. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she reviewed the draft findings of fact for Compliance with Subdivision Regulations and Survey Requirements. Those draft findings touch on the following information: the proposed project does not comply with all subdivision regulations, four open space parcels and one County Parkland parcel don't meet lot length to width ratios and a variances has been granted, a variance has been granted for exceeding the block length limitation of 1600 feet, a variance has also been granted for an intersection alignment, a variance has also been granted for RID requirements for the fire protection system, the project will be built in three phases, the project does not comply with all survey requirements and staff has identified survey requirements that can be met with approval conditions.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Compliance with Subdivision Regulations and Survey Requirements, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not be in Compliance with Subdivision Regulations and Survey Requirements but can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she reviewed the draft findings of fact for Adequate Provision of Utilities. Those draft findings touch on the following information: utilities are available, the proposal doesn't include all required utility easements, NorthWest Energy has asked for transformer easements, staff has indicated that utility requirements can be addressed with approval conditions.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Adequate Provision of Utilities, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not have adequate Provision of Utilities but can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she reviewed the draft findings of fact for Adequate Provision of Access. Those draft findings touch on the following information: the project is just south of and abutting Canyon Ferry Road, the project will create two new intersections on Canyon Ferry Rd about 1000 feet apart, there are no reasonable alternatives to accessing the State highway, the internal subdivision roads will be paved local roads, apart from the two new intersections, access along Canyon Ferry Road will be restricted, MDT approach permits will be required for those new intersections, the applicant has applied for those State permits, MDT has reviewed the applications and provided the applicant with comments, one of the intersections doesn't align with a street across Canyon Ferry Rd which requires a variance and that variance has been granted, an existing utility pole is preventing alignment, Northwestern Energy confirmed that moving the pole would be a major undertaking, engineering analysis has confirmed clear sight distances at the intersections, engineering analysis has verified that there will be no turning movement conflicts, all internal roads will have adequate right of way widths, trail easements will be platted in Phase I, there will be 20 foot trail easements in Phase II, there will be a 20 foot trail easement in Phase III, a portion of the trail system will be constructed prior to final plat of Phase III, a variance has been granted to reduce block lengths and avoid pedestrian/vehicle conflicts, easements will be extended to abutting properties to the west for future street connections, easements will be extended to abutting properties to the east for future street connections, the roads in these easement extensions will be built to the property lines and staff has identified access requirements that can be mitigated through approval conditions.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Adequate Provision of Access, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not have adequate Provision of Access but can be mitigated through conditions of approval. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Geise stated that she reviewed the draft findings of fact for Compliance with Zoning and Other Regulations. Those draft findings touch on the following information: The property isn't zoned, there are no existing covenants on the property and staff has identified points of potential non-compliance to be mitigated with approval conditions.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Compliance with Zoning and Other Regulations, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony at the Planning Board public hearing, the Planning Board

recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not be in Compliance with Zoning and Other Regulations but can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Hunthausen stated that the Commissioner has now adopted findings of fact and conclusions of law for the proposed subdivision. Have you had opportunity to review the draft conditions of approval and are you prepared to act on them?

Commissioner Geise stated that she reviewed the draft conditions of approval that are intended to mitigate adverse impacts of the subdivision, to ensure compliance with subdivision regulations and other requirements and regulations, and to provide adequate utilities and access. Those draft approval conditions are as follows: Phase I DEQ & County Health review and approval of the wastewater and water systems, DEQ & County Planning review and approval storm drainage systems for Phase I, approval of a weed management plan, DEQ review and approval of an erosion control plan, an MDT approach permit for the first access onto Canyon Ferry Road, an MDT approach permit for the second access onto Canyon Ferry Road. Public Works and Planning approval of road plans and construction of internal roads and utilities for Phase I, preparation and recording of a vegetation management plan, approval of a water source for fire protection, installation of mailboxes for Phase I meeting Post Office standards, dedication of parkland and payment of cash in lieu of parkland, creation of an RID for Phase I to maintain and repair roads, parks, stormwater facilities, and fire protection, approval of all Phase I road names by the Address Coordinator, Public Works and Planning approval of road signage plans for Phase I, approval of all lot addresses for Phase I, preparation of a final plat meeting all survey and regulation requirements, filing of restrictive covenants, installation or bonding of all public improvements, proof of title and payment of all taxes, preliminary approval term of 3 years, Final platting of Phase II with Phase I or after it DEQ & County Health review and approval of the wastewater and water systems, DEQ & County Planning review and approval storm drainage systems, approval of a weed management plan, DEQ review and approval of an erosion control plan, Public Works and Planning approval of road plans and construction of internal roads and utilities for Phase II, installation of mailboxes for Phase II meeting Post Office standards, payment of cash in lieu of parkland for Phase II, amendment of the RID to maintain and repair roads, parks, stormwater facilities, and fire protection to include Phase II, approval of all Phase II road names by the Address Coordinator, Public Works and Planning approval of road signage plans for Phase II, approval of all lot addresses for Phase II, preparation of a final plat meeting all survey and regulation requirements, filing of restrictive covenants, installation or bonding of all public improvements, proof of title and payment of all taxes, preliminary approval term of 3 years. For Phase III, final platting of Phase III with prior Phases or after them, DEQ & County Health review and approval of the wastewater and water systems, DEQ & County Planning review and approval storm drainage systems for Phase III, approval of a weed management plan, DEQ review and approval of an erosion control plan, Public Works and Planning approval of road plans and construction of internal roads and utilities for Phase III, installation of mailboxes for Phase III meeting Post Office standards, payment of cash in lieu of parkland for Phase III, amendment of the RID to maintain and repair roads, parks, stormwater facilities, and fire protection to include Phase III, approval of all Phase III road names by the Address Coordinator, Public Works and Planning approval of road signage plans for Phase III, approval of all lot addresses for Phase III, preparation of a final plat meeting all survey and regulation requirements, filing of restrictive covenants, installation or bonding of all public improvements for Phase III, proof of title and payment of all taxes and preliminary approval term of 3 years.

A motion was made by Commissioner Geise that after reviewing the draft conditions of approval for all three project phases, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the conditions of approval as submitted. The motion was seconded by Commissioner Murray, the motion Passed on a 3-0 vote.

Commissioner Hunthausen stated that the Commission has now acted on the variance requests and adopted findings of fact and conclusions of law for the proposed subdivision. We have also adopted conditions of approval that must be met prior to final plat. Is anyone prepared to act on the subdivision application as a whole.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and conclusions of law and the adopted conditions of approval, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the subdivision request subject to the adopted conditions of approval. The motion was seconded by Commissioner Murray, 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.**

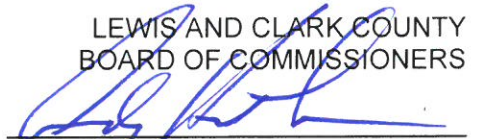
**PUBLIC COMMENT-**

Bob Drake, Chief of Tri-Lakes Fire Department, stated that he has been in contact with other Departments including Lincoln and Augusta and they are not requesting a fireworks ban for 2015 as the conditions have not risen to that point. Open burning is currently closed in Lewis & Clark County however there is no restrictions on recreational fires at this time.


**Adjourn**

There being no further business, the meeting adjourned at 11:07 am.

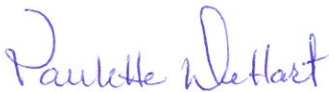
LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
Andy Hunthausen, Chairman

  
\_\_\_\_\_  
Michael Murray, Vice Chair

  
\_\_\_\_\_  
Susan Good Geise, Member

ATTEST:



\_\_\_\_\_  
Paulette DeHart, Clerk of the Board