



PUBLIC MEETING

July 18, 2017

MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, July 18, 2017, at 9:00 AM in Commission Chambers Room 330.

Roll Call

Chairman Susan Good Geise called the meeting to order at 9 a.m.

Commissioner Andy Hunthausen and Commissioner Jim McCormick were present. Others attending all or a portion of the meeting included Roger Baltz, Skeeter Bacchtsch, Brian Coplin, Nancy Everson, Eric Griffin, Nicho Hash, Matt Heimel, Jim Henry, Dan Karlin, Charles Lane, Roger LaVoie, Marlys Mattfeldt, Greg McNally, Christal Ness, Mitchell Stukaloff, Audra Zacherl, and Nadine McCarty, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

- a. Resolution 2017-77 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 Hunthausen. The motion Passed on a 3-0 vote.

Contract Between Lewis and Clark County and SMA Architects. (Audra Zacherl)

Audra Zacherl, Assistant Director of Public Works presented the contract with SMA Architects for the design and construction management of the Murray Building lower level remodel. A Community Development Block Grant (CDBG) of \$450,000 was awarded to Lewis and Clark County for the remodel. The purpose of the project is to consolidate the Lewis and Clark County Public Health Department into one facility, with the exception of Environmental Health Services. Design services will include mechanical systems, electrical systems, IT integration systems, office layout and general workspace efficiency.

The contract is through December 31, 2018 with a contract price for time and materials not to exceed \$85,000. In addition to CDBG funding, Public Health is contributing approximately \$215,396 for a total project budget of \$665,000. Staff recommends approval of the contract with SMA Architects.

No public comment was received.

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

Approval of Funding for the Lewis and Clark County Attorney's Office to File an Amicus Brief. (Roger Baltz)

Roger Baltz, Chief Administrative Officer, presented the request that the County Attorney's Office pursue an Amicus Brief with regards to the Stonewall Vegetation project and authorize funding up to \$5,000. Staff will also pursue any grant funds that may be available.

Commissioner McCormick stated this amicus brief is to make a statement to the public through a legal process that Lewis and Clark County supports moving forward with what is called the Stonewall project near Lincoln. The project is a forest vegetation and forest health project that has many components. The project was approved by all parties required to sign off on the project. The court is being asked to allow the project to move forward while the project is being litigated.

Charles Lane, Deputy County Attorney stated they are filing a statement, as a friend of the court, on the regality of the process that has already been approved through a bureaucratic process and is now held up in litigation on the fuel management of the area.

No public comment was received.

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

Final Plat Application for the Amended Plat of Lot 5 - Tillerson Minor Subdivision. (Applicant: Dallas and Karen Cox) (Planner: Greg McNally)

Greg McNally, Planner II, presented the final plat application of the amended plat of lot 5 of Tillerson Minor Subdivision. The preliminary conditional approval is for 3 lots, each for one single-family dwelling. The Subdivision is located east and adjacent to Pioneer Park Drive and north of and adjacent to Tilly Court.

The conditional approval was given in 2010. Mr. McNally presented an updated plat and listed the twenty conditions of approval and a description of compliance for each condition. All conditions have been met, with the exception of Condition 18.d: the installation of utilities has only been partially met. Electric and gas utilities have been installed, but telephone and cable have not. This has become a common occurrence in which telecommunication services are declining to provide services to developing lots. There are other options available for phone and internet through satellite communications.

No public comment was received.

A motion was made by Commissioner Hunthausen to approve the final plat application and recognize that Condition No 18.d has not fully been met, but the Commission decides the requirements have been substantially complied with. The motion was seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

Proposed Amended Plat of Lot 8 - Broadwater Estates Subdivision. (Tabled 5/23/17) (Applicant: Gabe Nistler) (Planner: Jim Henry)

Jim Henry, Planner I, presented the applicant's request for a suspension of the review period until April 20, 2018 for the proposed Amended Plat of Lot 8 in the Broadwater Estates Subdivision. The current review period ends on August 1, 2017. The applicant has previously requested two

extensions of the review period and has asked that the Commission continue two noticed public meetings. This request, however, does not include a request to continue the public meeting to a date specific. The Commission was initially scheduled to hear the item on April 30, 2017.

The applicant proposes to remove, reduce, and relocate an existing utility easement to accommodate the Broadwater Hot Springs and Fitness Club's current sewer line as it crosses the subject property. The applicant located and mapped the existing sewer line and during the process discovered that the current location is too close to an existing water line. In light of the water line discovery, according to DEQ the applicant has two options: move the line to the minimum required distance of 10 feet away from the water line, it is currently at 5 feet; or ask for a variance from DEQ's regulations.

The applicant opted to move the line and during excavation the excavator encountered hard rock and was damaged. The applicant has no timetable for repair completion of the excavator, nor a timeline for the submittal of the Broadwater Hot Springs and Fitness Club's modified wastewater treatment system layout plan to DEQ for review. While a timetable for completion of the project is not available, the applicant is confident that a suspension of the review period until April 20, 2018 will provide sufficient amount of time for excavator repairs, move the line and complete the DEQ and County review process.

If this is extended the application will be treated as brand new with re-notice, send out again for comments and start over as the application will be slightly different. They want to ensure the commenting agencies are still onboard and all those in the neighborhood are aware of what is taking place.

Mr. Henry explained this does not affect the current operation of the hot springs and fitness club. The drain field for the fitness club was established before Broadwater Estates existed and is completely separate from the subdivision.

Mr. Henry stated the applicant is aware he will be starting from scratch next year.

No public comment was received.

A motion was made by Commissioner Hunthausen to suspend the review period through April 20, 2018 as requested. The motion was seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

Resolution 2017-79 to Create the Camelot Rural Improvement District No. 2017-6. (Planner: Matt Heimel)

Matt Heimel, Special Districts Planner, presented the resolution to create the Camelot Rural Improvement District (RID) to improve and maintain roadways that are within or access the subdivision. Services of the district will consist of funding future improvements and ongoing maintenance of hard surfaced roadways. Any funds collected through the RID will be spent only for the purposes of the RID and funds will be continually monitored.

Resolution 2017-47 of Intention to create the district was adopted on June-8, 2017. All owners of property within the district waived the right to protest creation of the RID through restrictive covenants. No letters of protest were received.

County Public Works staff prepared cost estimates that were selected by the Homeowners Association (HOA) for the RID proposal. The estimated cost for funding improvements is \$18,655.42 or \$98.24 annually per benefited property through a 10-year debt service assessment. The estimated cost for funding maintenance is \$2,684.07 per year or \$111.84 per benefited property per year. After the 10-year term the assessments will be the maintenance assessment.

The anticipation is that a resolution to levy and assess the district be brought before the Commission prior to August 31, 2017, so that the district may be funded through assessments during the next tax year.

Mr. Heimel noted the RID was initiated by the HOA.

PUBLIC COMMENT -

Mitchell Stukaloff, 5546 Canyon Ct, acting president of the HOA stated he came to express the appreciation of the HOA for the option to have the RID.

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

Resolution 2017-74 Discontinuing a Segment of an Alley in the Ames Addition of Helena. (Tabled 7/11/17) (Planner: Matt Heimel)

Matt Heimel, Special Districts Planner, presented the proposed discontinuation of the alley in the Ames Addition that was tabled on July 11, 2017. There were issues mentioned at the hearing. There was not total compliance with the conditions of approval based on a discrepancy with how the applicant was able to proceed versus the opinion of County legal staff that certain actions needed to be taken, namely a new deed with the Helena School District to transfer the alley and a boundary line relocation in which the school district would be a party too. Neither condition was accomplished.

Charles Lane, Deputy County Attorney requested this be tabled within a month as County legal made an opinion last year that the deed transfer from the school district back in the late 1960s was incorrect. New information has come forward since the opinion was made and Mr. Lane would like time to review the information.

Mr. Heimel stated no sense of urgency has been received that the discontinuation needs to happen immediately.

No public comment was received.

A motion was made by Commissioner Hunthausen to table the item to August 22, 2017 at the regularly scheduled meeting and was seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

Contract and Encroachment Agreement Between Lewis and Clark County and Donald A. Hinman. (Tabled 7/11/17) (Christal Ness)

Christal Ness, Land Use Ombudsman requested this item be table to August 22, 2017 as the utility easement is not dealt with until the final plat is dealt with that vacates the alley.

No public comment was received.

A motion was made by Commissioner Hunthausen to table the item to August 22, 2017 at the regularly scheduled meeting and was seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

Resolution 2017-76 to Create the Helena Valley Flood Mitigation Rural Improvement District. (Tabled 7/11/17) (Planner: Matt Heimel)

Matt Heimel, Special Districts Planner, presented the proposed resolution to create the Helena Valley Flood Mitigation Rural Improvement District (RID) that was considered on July 11, 2017.

After ample public testimony the hearing was continued to July 18, 2018. Mr. Heimel noted he has staff responses to public comments as well.

Mr. Heimel stated a new resolution draft was distributed to staff and discussed. A revision on the first page was made to state that the projects recommended in the 2013 Helena Valley Flood Mitigation Master Plan and other needed flood mitigation analysis and work within the boundary.

Charles Lane, Deputy County Attorney stated the revised language is intended to encompass the idea that they are not on the 2013 master plan. This is to clarify that other activities and projects that may be contemplated in the future will be authorized under this resolution.

Commissioner Good Geise referenced the proposed alternatives discussed at the July 11, 2017 meeting that deserved investigation and the revised resolution would be able to accommodate some of the proposed alternatives. Mr. Lane clarified some of the proposed projects may have included projects outside of the boundaries of the District and the requirements are that the funds be used to benefit the properties within the District and projects are to be within the District.

Mr. Heimel gave an extensive overview of staff responses to the grouped together points voiced by the public in opposition to include: there is no problem; my property should not be included; the tax is unfair; the plan is wrong; and the county is to blame for the flooding problems. He also reviewed the eleven comments in support of the RID.

Commissioner Good Geise stated the Commission has heard loud and clear the concerns of the folks that live on the east side of the Interstate and want to ensure these residents that any plan will be made in conjunction with those affected landowners. Any actions that the county takes will be taken after consultation with the affected folks. Furthermore the county will work with property owners on any easements that need to be acquired. The county appreciates the property owners willingness to work with them and that nothing would be imposed on them in a unilateral or arbitrary manner.

PUBLIC COMMENT -

Roger LaVoie, 512 Stadler Road referenced the 198 people that protested the RID and asked how many people supported the RID. Commissioner Good Geise did not have that answer and she stated during these processes often times more protest is heard then support. What was made available is an opportunity to support. Mr. Heimel stated the form was protest or support and about 12 in support were received.

Mr. LaVoie stated 10 Mile Creek would have to be cleaned out every 5 to 10 years due to the silt buildup. The 1982 Morrison-Maierle study about cleaning out 10 Mile Creek, suggested the cost, benefits and compared it to the County's Master Flood Plan that cost \$9.7 million and takes care of a 25 year flood event. The cost at that time would be \$6,500 the inflation calculator says today it would be \$17,000 to clean out Ten Mile Creek once. In 1994 when the county did clean out Ten Mile Creek it cost \$20,000. According to Morrison-Maierle the benefits of cleaning out 10 Mile Creek it would allow the creek to handle a 10 to 15 year flood event. Compare that to the County's expensive plan that will handle a 25 year flood event.

Morrison-Maierle also stated if the bridges at Green Meadow, N Montana, and McHugh were fixed it would increase the capacity of Ten Mile Creek to be able to handle an undetermined amount in excess of a 10 to 15 year flood event. Mr. LaVoie supports the county's plan for flood mitigation in the valley and the RID, he just hopes the plan includes the clean out of Ten Mile Creek.

Commissioner Good Geise referenced the numerous changes that have been made to statutes regarding what can be done with a stream has changed exponentially in the last nineteen years.

The purpose of the flexibility in the revision of the resolution is to be able to consider some of the fixes if they are legal and affordable.

Eric Griffin, Director of Public Works, clarified the creek was not cleaned out or dredged in 1994. Public Works walked the creek with biologists from Fish, Wildlife and Parks and identified snags, trees, brush, etc. to remove with some not removed that would be detrimental to the fish. Mr. Griffin also stressed regardless of what is done or how it is done the water runs to the D2 Ditch.

Commissioner Good Geise asked that staff recommend how communication can be made to the property owners on the eastern side of the Interstate about the county's intentions as things move forward. Charles Lane, Deputy County Attorney stated he understands the intent to work collaboratively with the owners along the D2 Ditch. The owners that have spoken to him have stressed their interest in working with the county.

Commissioner McCormick referenced the Montana Stream Permitting Guidelines from the Conservation District related to the dredging of streams and encouraged people to read the document.

A motion was made by Commissioner McCormick to approve the resolution and seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Hunthausen to amend the fifth whereas in the document to read Whereas, the County Commission has determined that a funding source for implementing projects recommended in the 2013 Helena Valley Flood Mitigation Master Plan and other needed flood mitigation analysis and work within the area shown on the boundary map shown in Exhibit A should be a Rural Improvement District in order to defray the cost of improvements through a tax upon benefiting properties of said work. The motion was seconded by Commissioner McCormick.

Commissioner Hunthausen stated though \$9.7 million of improvements have been identified through the Master Plan it does not mean all of the improvements will be accomplished in any short order or that in the future there might not be priority changes in projects.

Commissioner Good Geise stated there is a motion and a second to amend the resolution. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Hunthausen to adopt the resolution as amended and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

Public Hearing. Lewis and Clark County's Budget for Fiscal Year 2018. (Nancy Everson)

Nancy Everson, Chief Financial Officer, reviewed the proposed FY18 budget presented on July 13, 2017: Commission goals; revenues, a decrease of \$3 million primarily due to a reduction in the Western Federal Highway grants, County reserves decrease is due to the built up reserves being utilized in FY18; expenditures, an increase of a little less than 1%; the all purpose fund, general operations; and all purpose fund expenditures. The debt service fund is about 2% of the County budget, capital projects at about 14%. There is a 1.3% matrix adjustment for personnel, pay steps are included, a \$300 increase in health insurance premiums. New for FY18 is a 3% increase in the Sheriff's Retirement System employer contribution from the 2017 legislature. There are several proposed new positions in the budget. Operations and maintenance all current services and programs included in the budget. Priorities set by the Commission are the public safety facility, number one initiative; court system funding; mental health services; and contingency and capital funding. The capital improvement fund includes: FY18 transfers in, capital expenses; other capital funds; RID projects, federal grant projects, and road and bridge projects. Ms. Everson reviewed the reserves; revenue analysis with an estimated 2.28% tax revenue growth. The decrease in

County reserves is due to: open space projects, maintenance districts, capital reserves and operating cash reserves.

No public comment was received.

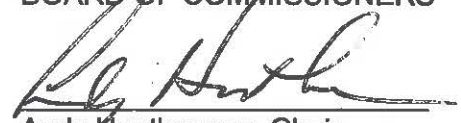
Commissioner Good Geise stated that the public hearing will remain open until decision day on Thursday, July 27, 2017 at the regularly scheduled meeting.


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


Adjourn

There being no further business, the meeting adjourned at 10:51 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

