



PUBLIC MEETING

July 2, 2015
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, July 2, 2015, at 9:00 AM in Commission Chambers Room 330.

Roll Call

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

Commissioner Susan Good Geise and Commissioner Mike Murray were present. Others attending all or a portion of the meeting included Eric Bryson, Michele Peterson-Cook, K. Paul Stahl, Kathy Moore, Mike Henderson, Drenda Niemann, Greg McNally, Christal Ness, Bob Drake, Katrina Himmelreid, Ron Bartsch, Jeff Key, Al Knauber, Matt Witkos, and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

- a. Public Meeting Minutes: June 9, 11, 16 and June 18, 2015. (Nichole Nisbet)

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

No public comment was received.

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

Contract Agreement between Lewis & Clark County and the Department of Environmental Quality. (Kathy Moore)

Kathy Moore, Lewis & Clark County Environmental Division, presented the contract between Lewis & Clark County and the Department of Environmental Quality to review certain water supplies, wastewater systems, solid waste disposal and stormwater systems to determine compliance with the Sanitation in Subdivisions Act (76-4-104, MCA) for new subdivisions. The contract amount is determined by the number of applications received. The contract period begins July 1, 2015 through June 30, 2017.

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.

Contract Amendment between Lewis & Clark County Public Health and the Montana Department of Public Health and Human Services. (Drenda Niemann)

Drenda Niemann, Community Health Promotion Division Administrator, presented the contract amendment between Lewis & Clark County Public Health and the Montana Department of Public Health and Human Services for the Children's Trust Fund grant award in the amount of \$7,500. The

program provides parenting classes and weekly support groups. The grant period begins July 1, 2015 through June 30, 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.

Task Order 16-07-6-11-028-0 to Lewis & Clark County Public Health for Public Health Emergency Preparedness. (Mike Henderson)

Mike Henderson, Division Administrator for Communicable Disease, the task order between Lewis & Clark County Public Health and the Montana Department of Public Health and Human Services in the amount of \$95,357 to assist County health departments to progress toward public health preparedness capabilities that promote safer and more resilient communities. The funds provide support for equipment that assists in broadcasting, faxing and e-mailing updates and emergency health alerts from the Health Department. The grant period begins July 1, 2015 through 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.

Amendment No 1. to the Helena Area Transportation Plan Agreement between the City of Helena, Lewis & Clark County and Montana Department of Transportation. (Eric Bryson)

Eric Bryson presented the Amendment No. 1 to the Helena Area Transportation Plan Update Funding Agreement. The amendment extends the contract twenty (20) months and the compensation from \$50,000 to \$53,750. The amendment is necessary to accommodate additional consultant tasks and extended schedule.

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.

Acceptance of the Panoramic Meadows Revised/Updated Letter of Credit. (Eric Bryson)

Eric Bryson presented the updated letter of credit for Panoramic Meadow. The original letter of credit has expired.

Before the Commission today is a new letter of credit effective June 17, 2015 to continue any negotiations that may impact the subdivision improvement agreement.

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.

Proposed Fire Protection Measures for Lot A-1A Amended of the H.W. Smith Minor Subdivision. (Heron Creek, Phases I-VI) (Applicant: Ron Bartsch) (Planner: Greg McNally)

Greg McNally, Planner II, presented the proposed fire protection measures for the preliminarily approved subdivision located east of and adjacent to Eames Lane, and south of and adjacent to Kier Lane. On September 18, 2007, the Commission granted preliminary plat approval for a 70 lot subdivision, 65 single-family residential lots, 1 lot for 44 condominium units, 2 lots for a park area, and 2 lots for a community wastewater treatment. On November 6, 2008, the preliminary plat was modified to allow a split entryway internal access road design with a structure for the clustered mailbox units. On February 28, 2012, the preliminary plat was modified to add conditions related to the improvement of Eames Lane; create 44 lots, each for one single-family dwelling, on the preliminarily approved 10.89 acre lot that was previously approved for 44 condominium units; and the preliminary plat and conditions were modified to

be completed in six phases. This preliminary approval has been granted three extensions. The most recent extension will expire on September 18, 2015. The applicant has submitted a final plat application for Phases I-III which is currently under review. At the time of preliminary approval and subsequent modifications, the following condition was applied to each phase of the subdivision as the applicant and the County must agree, prior to final plat approval, on fire protection measures that minimize the risk of fire and that permit the effective and efficient suppression of fires. This condition was established based upon the Lewis and Clark County Subdivision Regulations, 2005 Chapter XI.S, which requires that all subdivisions shall be planned, designed, constructed, and maintained to minimize the risk of fire and to permit the effective and efficient suppression of fires in order to protect persons, property, and forested areas. At this time an effective and efficient means to mitigate fire dangers has not been reviewed due to recent decision by Judge Sherlock that the applicant and Lewis and Clark County must agree, prior to final plat approval, on fire protection measures that minimize the risk of fire and that permit the effective and efficient suppression of fires. The applicant has submitted the attached engineered fire suppression plans for the subdivision. The applicant proposes to provide a flow of 1,000 g.p.m. at a minimum of 20 p.s.i., continuously for a minimum of two hours and the system will connect to two hydrants located within 1,000 feet of each home within the subdivision. A dry hydrant with a separate intake will be available independent of the pumping system to lend redundancy to the entire system. The applicant proposes to utilize a Home Owners Association (HOA) to maintain the fire suppression system with a funding mechanism to divert 5 percent of HOA dues to a special account to maintain a maximum balance of \$20,000.00. Required by the private covenants, the covenants will be written so that future home owners cannot remove the funding mechanism. The completed system will be tested jointly by Casne & Associates and the Tri-lakes Fire Service to ensure the system performs as proposed. A third party review was done by Fire Out Consulting and noted that the proposed central fire protection system with hydrants does appear to be in compliance with the effective and efficient language found in the condition of approval and included a recommendation in his review that the connections from the draft hydrant and the recirculation line be standard fire service connections that are reviewed and approved by the Tri-Lakes Fire Department. A review was also done by DOWL that stated they have been found to be appropriate and adequate to supply a sufficient and reliable fire protection water facility for the proposed subdivision. Comments were requested from Bob Drake, Fire Chief of the Tri-Lakes Volunteer Fire Department and Northwestern Energy. Northwestern Energy had no comments. Mr. Drake indicates concerns and stated that they cannot protect the center of the subdivision given our current capabilities. The risk of fire spreading from house to house in the center oval is too great and Mr. Drake could not say they can protect them when he believes they cannot. Key issues noted include maintenance as the applicant proposes to utilize an HOA and private covenants to maintain the fire suppression system. However the current conditions of approval for this subdivision require the fire protection improvements to be included in a Rural Improvement District (RID) to ensure maintenance is accounted for. To be included in an RID, the fire suppression system must be publically owned. Bob Drake has previously vocalized concerns to Staff about the liability, complexity, and cost of insurance to own and maintain an open water fire suppression storage and delivery system. The other key issue is the fire safety in Phase II of the Subdivision: Phase II of the subdivision is the densest area of the preliminarily approved subdivision. Phase II will include 44 single-family dwelling units on 10.89 acres, a 60-foot wide public access and utility easement, utility easements and setbacks, well and well line easements, and the proposed fire protection system.

Commissioner Murray asked Mr. McNally if the pond will freeze in the winter.

Mr. McNally stated that the review done by Mr. Casne notes that the pond will contain the required volume 365/days a year regardless of ice buildup.

Ron Bartsch, the applicant, stated that the plan before you has been extensively reviewed. The larger pond of the two ponds will provide the water supply. It is a mechanically pressurized water system that will go to two fire hydrants. In the design, sedimentation will be allowed in the first pond while the larger pond is lined. The intent is to have the HOA. In addition they have submitted final application approval. Two houses have been constructed that include fire suppression systems within these units to help

further protect these homes. They do intend to provide that same level of fire protection to all 44 homes in that area.

Commissioner Murray asked Mr. Bartsch about his opposition to indoor fire sprinkler systems.

Ron Bartsch stated that he opposed the mandatory implementation of fire systems within a residential unit as a mandatory condition of approval. Mr. Bartsch stated that he is in favor of having an option to provide a fire protection plan presented by the developer.

Bob Drake, Fire Chief of Tri-Lakes Fire Department, stated his concern is that there is nothing on paper that states sprinklers will be located in those developments by the developer voluntary or in a covenant. There is concern about the density of the inner circle and from a liability standpoint they cannot own the ponds and take responsibility for the open ponds due to not being able to control access.

Michele Peterson-Cook, Deputy County Attorney, stated that the Commission can include in the findings of fact the developer's voluntary placing in his conveyance fire sprinklers. It is not a consideration you can make on whether or not the developer is providing adequate water. Ron Bartsch stated the intention is to voluntarily put in covenants that those restrictions will apply to center portion of the development.

No further public comment was received.

A motion was made to render a final decision at the next regularly scheduled public meeting on Tuesday, July 7, 2015. The motion was seconded by Commissioner Murray with a vote of 3-0.

Break/reconvene.

Contract and Encroachment Agreement between Lewis & Clark County and Cheryl and Michael York. (tabled 6/25/15) (Christal Ness)

Christal Ness, Project Coordinator, presented the contract and encroachment agreement between Lewis & Clark County and Cheryl and Michael York for a locked gate on a Public Access Easement known as West Loren Road. The Commission heard the presentation last week and today is decision day.

PUBLIC COMMENT-

Cheryl York, the owner of the property, stated there are no homes or development past the gate as the property is private. Ms. York stated that they did sign an easement to the road as a condition of the sale for possible future development.

Commissioner Hunthausen stated that there is a 60 day clause where the County can ask for the removal of any encroachment in the right-of-way.

A motion to allow the gate to remain with the conditions of approval of the gate remaining unlocked with additional signage recognizing it is public road on private property and to close the gate was made by Commissioner Geise and seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Board Appointments. (Eric Bryson)

Commissioner Hunthausen presented the board appointments and recommended the appointment of Fran Viereck to a 3 year term on the Forestvale Historic Preservation Committee that expires on 8/31/2018. The appointment of Jennifer Lowell to a 3 year term on the Water Quality Protection District that expires 6/30/18. The appointment of David Bustos to a 3 year term on the Compensation Board as the resident taxpayer that expires on 6/30/18. The reappointment of Anne Weber to a 3 year term on the City-County Board of Health as the Member at Large for the County that expires 6/30/18 and the appointment of Julie Serstad to a 3 year term on the City-County Board of Health as the Member at Large in the City that expires 6/30/18.

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.

2014 Greater Helena Area Transportation Plan Update. (Jeff Key)

Jeff Key, Project Manager of Robert Peccia and Associates, presented the 2014 Great Helena Area Transportation Plan Update. The Helena City Commission unanimously adopted the plan earlier this week. The public draft document was made available and comments were received by 15 individuals. Mr. Key asked for adoption of the plan as soon as possible.

No public comment was received.

A motion to adopt the plan as presented was made by Commissioner Geise and 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.

Adjourn

There being no further business, the meeting adjourned at 10:29 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