



## **PUBLIC MEETING**

July 21, 2015

MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, July 21, 2015, at 9:00 AM in Commission Chambers Room 330.

### **Roll Call**

Commissioner Mike Murray called the meeting to order at 9 a.m.

Commissioner Susan Good Geise was present. Commissioner Hunthausen was excused on personal business. Others attending all or a portion of the meeting included Eric Bryson, Michele Peterson-Cook, K. Paul Stahl, Nancy Everson, George Theborge, Kevin Hamilton, Drenda Niemann, Paul Spengler, Kathy Moore, Greg McNally, Cheryl Green, Jeremy Fadness, Mike McHugh, PJ McHugh, Tony Prothero, Al Knauber, and Nichole Nisbet, Recording Secretary.

### **Pledge of Allegiance**

Everyone recited the pledge.

### **Consent Action Items**

- a. Resolution 2015-99 Ordering a Refund of Taxes/Fees/Assessments Paid by David Hartnett in the Amount of \$1,342.65. (Cheryl Green)
- b. Resolution 2015-100 Ordering a Refund of Taxes/Fees/Assessments Paid by Lori Frisbey in the Amount of \$451.10. (Cheryl Green)

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

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 2-0 vote.

### **Contract between Lewis & Clark County and Helena Sand and Gravel. (Eric Bryson)**

Eric Bryson presented the contract between Lewis & Clark County and Helena Sand and Gravel for work necessary to improve the parking area at the Lewis and Clark County Fairgrounds in an amount not to exceed \$32,400.

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 2-0 vote.

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

Kathy Moore, Environmental Services Administrator, presented the contract between Lewis & Clark County and Montana Department of Environmental Quality in the amount of \$23,578.00 for the outdoor air pollution control program. The contract 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 2-0 vote.

**Grant Application for the Pre-Disaster Mitigation Grant to Lewis & Clark County. (Paul Spengler)**

Paul Spengler, DES Coordinator, presented the FEMA Pre-Disaster Mitigation Grant to update the Lewis & Clark County Pre-Disaster Mitigation plan. The grant covers Lewis & Clark and Jefferson County for a total of \$50,899.98 with each County's share of 25% or \$8,483.34. An updated plan is due to FEMA every five years and is required in order to request funding for future projects.

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 2-0 vote.

**Grant Award to Lewis & Clark Public Health for the 1st Judicial District Prevention Incentive Fund. (Drenda Niemann)**

Drenda Niemann, Community Health Division Administrator, presented the grant award to Lewis & Clark Public Health for the 1st Judicial District Prevention Incentive Fund in the amount of \$24,480 in support of the County's administration of the Helena Consented Referral System. The program has over 480 referrals and the connection rate has increased from 14 percent to 79 percent since the inception. The grant award period begins July 1, 2015 and 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 2-0 vote.

**Amended Plat of Lot G1A - McHugh Subdivision No. 2 (tabled 7/16/15) (Applicant: McHugh Land and Livestock Co.) (Planner: Lindsay A. Morgan)**

Greg McNally, Planner II, presented the amended Plat of Lot G1A known as the McHugh Subdivision No. 2.

Commissioner Murray asked the applicant if they have received the copies of the comments from the City and if they have reviewed the staff findings of fact and conditions of approval.

Jeremy Fadness, applicant's representative, stated they have reviewed the findings of fact and proposed conditions of approval and sees no issues at this point.

Commissioner Murray stated the public hearing is now closed.

Commissioner Murray stated that the Commission has reviewed the staff report, variance request, the presentations by staff and the applicant, and the draft findings of fact and conclusions of law and approval conditions, he asked if anyone 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 request, the presentations by staff and the applicant, and the draft findings of fact and conclusions of law and approval conditions, and after considering public testimony, to approve the subdivision request with conditions of approval needed to mitigate adverse impacts or to bring the project into compliance with regulations. The motion was seconded by Commissioner Murray.

Commissioner Murray stated that the Commission now has a motion on the floor for action on the subdivision application. We will first consider whether or not to approve the requested variance 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: the lot will remain vacant, the lot has been used for gravel mining operations, the lot is over 20 acres in size, the application states that not providing a building site on the Lot will not be detrimental to the public, the application states that a hardship would arise from the cost of fill material and substantial grading if a building site on this Lot is required and the application states that granting the variance will not place the proposal in nonconformance with zoning.

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

Commissioner Geise stated that she has reviewed the variance criteria that must be met by the applicant. Those variance criteria are the following: the granting of the variance would not be detrimental to public health, safety, or general welfare or injurious to other adjoining properties. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the standards were enforced. The granting of the variance would not cause a substantial increase in public costs. The approval of the variance would not place the subdivision in nonconformance with other adopted regulations.

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

A motion was made by Commission Geise that after reviewing the adopted findings of fact and our conclusion on the variance criteria, to recommend approval of the variance request as submitted by the applicant. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has 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 soil mapping units for the property, whether those soils are prime farmland soils and what their limitations are, adjacent land uses, the City of Helena is located adjacent to the property and Staff has identified no potential adverse impacts on Agriculture.

A motion was made by Commission Geise that after reviewing the draft findings of fact on Impacts on Agricultural Lands and Agricultural Operations and after considering public testimony at our hearing, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commission Geise that after reviewing the adopted findings of fact, and after considering public testimony at our hearing, to adopt a conclusion of law that the proposed subdivision will not have adverse impacts on Agricultural Lands and Agricultural Operations. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Local Services related to Water and Wastewater. Those draft findings touch on the following information: the proposed means of wastewater disposal, the soil mapping units of the site

and limitations with on-site wastewater treatment, the proposed means of water supply, wells in the area draw from the alluvial aquifer, the average well depth is 93.07 feet, the average well yield is approximately 38.4 gallons per minute, well logs indicate an adequate supply of water for the church, water and wastewater are subject to review by DEQ outside of subdivision review.

A motion was made by Commission Geise that after reviewing the draft findings of fact on Impacts on Water and Wastewater and after considering public testimony at our hearing, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Solid Waste, Mail Delivery, and Utilities. Those draft findings touch on the following information: the project will have solid waste services, mailboxes must be installed in accordance with Postal Service's specifications, utilities are adjacent to the property, utilities need to be installed in accordance with subdivision regulations and subdivision regulations require the provision of utility easements.

A motion was made by Commission Geise that after reviewing the draft findings of fact on Impacts on Solid Waste, Mail Delivery, and Utilities and after considering public testimony at our hearing, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Schools and Parkland. Those draft findings touch on the following information: the subdivision will be in the Helena School District, no students will be generated and no parkland dedication is required.

A motion was made by Commission Geise that after reviewing the draft findings of fact on Impacts on Schools and Parkland and after considering public testimony at our hearing, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has 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 will need to meet street addressing and signage requirements, the applicant must obtain all necessary permits, the proposed Lots will access off of McHugh Lane, McHugh Lane is a major collector, according to the TIS, the project will produce 408 daily trips, according to the TIS, 25% of traffic will go north on McHugh Lane and 75% will go south, according to the TIS, the project will have little impact on the surrounding road system and nearby intersections will function at acceptable levels of service, a percentage of impact analysis indicates that the traffic generated from the project will not require improvements to adjacent or off-site roads or the payment of a fee for improvements to those roads, MDT has stated that all proposed work on the project is located outside of their jurisdiction, the Road Supervisor had no comments regarding the project, the subject property has frontage along three other roads and the subject property is located within the boundaries of an existing RID.

A motion was made by Commission Geise that after reviewing the draft findings of fact on Impacts on Traffic and after considering public testimony at our hearing, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Emergency Services. Those draft findings touch on the following information: emergency response times from St. Peter's Hospital are moderate to, Sherriff's response times are moderate, the property is in the West Helena Valley Fire District and the applicant plans to construct an on-site fire protection source.

A motion was made by Commission Geise that after reviewing the draft findings of fact on Impacts on Emergency Services and after considering public testimony at our hearing, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has reviewed the draft finding of fact for possible Mitigation of the Impacts of the proposed subdivision on all local services. That draft finding touches on the following information: staff has identified negative impacts on local services that can be mitigated with approval.

A motion was made by Commission Geise that after reviewing the draft findings of fact on Impacts on Mitigation of Impacts and after considering public testimony at our hearing, to approve the finding on mitigation of impacts as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Murray stated that the Commission has 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. He asked if anyone prepared to make a motion on the conclusions on adverse impacts to local services.

A motion was made by Commission Geise that after reviewing the adopted findings of fact, and after considering public testimony at our hearing, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on Local Services but those impacts can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on the Natural Environment. Those draft findings touch on the following information: the proposed stormwater pond will be located on the north side of Lot G1-A-1, a 5-year weed management plan is required, a permit will be required for disturbance of more than an acre of land, visual impacts can be partially mitigated, natural screening and/or fencing is required around parking areas to screen from adjacent residential properties, the property lies in the Air Quality Protection District, an adjacent lot to the southwest is utilized for stormwater detention and is owned by the City of Helena, and staff has identified negative impacts on the natural environment that can be mitigated with approval conditions.

A motion was made by Commission Geise that after reviewing the draft findings of fact on Impacts on the Natural Environment and after considering public testimony at our hearing, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commission Geise that after reviewing the adopted findings of fact on Impacts on the Natural Environment and after considering public testimony at our hearing, to adopt a conclusion of law that the proposed Subdivision will have adverse impacts on the Natural Environment but can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Wildlife and Wildlife Habitat. Those draft findings touch on the following information: the Montana Natural Heritage Program has identified sightings of species of concern in the vicinity, the property provides general habitat for various species and staff has identified no potential adverse impacts on Wildlife and Wildlife Habitat that require mitigation.

A motion was made by Commission Geise that after reviewing the draft findings of fact on Impacts on Wildlife and Wildlife Habitat and after considering public testimony at our hearing, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commission Geise that after reviewing the adopted findings of fact on Impacts on Wildlife and Wildlife Habitat and after considering public testimony at our hearing, 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 2-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Public Health and Safety. Those draft findings touch on the following information: there is some potential for groundwater contamination that can be addressed through proper

septic system installation and maintenance, there are also radon risks, the area has a low fuel hazard rating for wildfires, a 15-foot wide setback is required from all property boundaries under the subdivision regulations, the Floodplain Administrator had no comments regarding the proposal, the property lies within Seismic Zone 3 and staff has identified potential adverse impacts on Public Health and Safety that can be mitigated.

A motion was made by Commission Geise that after reviewing the draft findings of fact on Impacts on Public Health and Safety and after considering public testimony at our hearing, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commission Geise that after reviewing the adopted findings of fact on Impacts on Public Health and Safety and after considering public testimony at our hearing, to adopt a conclusion of law that the proposed Subdivision will have adverse impacts on Public Health and Safety but can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

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

A motion was made by Commission Geise that after reviewing the draft findings of fact on Impacts on Cultural Resources and after considering public testimony at our hearing, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commission Geise that after reviewing the adopted findings of fact on Impacts on Cultural Resources and after considering public testimony at our hearing, 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 2-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for Compliance with Subdivision Regulations and Survey Requirements. Those draft findings touch on the following information: with the exception of the requested variance, the proposed conditions of approval will bring the project into compliance with subdivision regulations, the proposal does not meet all survey requirements and staff has identified survey requirements that can be met with approval conditions.

A motion was made by Commission Geise that after reviewing the draft findings of fact on Compliance with Subdivision and Survey Requirements and after considering public testimony at our hearing, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commission Geise that after reviewing the adopted findings of fact on Compliance with Subdivision and Survey Requirements and after considering public testimony at our hearing, to adopt a conclusion of law that the proposed subdivision will be in Compliance with Subdivision Regulations and will not be in Compliance with Survey Requirements but can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for Adequate Provision of Utilities. Those draft findings touch on the following information: the proposal does provide for utility easements, utilities are available; Northwestern Energy has stated they have no comments regarding the proposal and staff has indicated that utility requirements can be addressed with approval conditions.

A motion was made by Commission Geise that after reviewing the draft findings of fact on Adequate Provision of Utilities and after considering public testimony at our hearing, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commission Geise that after reviewing the adopted findings of fact on Adequate Provision of Utilities and after considering public testimony at our hearing, 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 2-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for Adequate Provision of Access. Those draft findings touch on the following information: access will be off McHugh Lane, the property is adjacent to other roads, approaches must be approved by the City of Helena and meet their requirements and staff has indicated that legal & physical access can be addressed with approval conditions.

A motion was made by Commission Geise that after reviewing the draft findings of fact on Adequate Provision of Access and after considering public testimony at our hearing, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commission Geise that after reviewing the adopted findings of fact on Adequate Provision of Access and after considering public testimony at our hearing, to adopt a conclusion of law that the proposed subdivision will not have adequate Provision of Access but can be mitigated through the conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for Compliance with Zoning and Other Regulations. Those draft findings touch on the following information: the property is zoned, Churches are subject to the issuance of a Conditional Use Permit, the applicant plans to apply for a Conditional Use Permit for the proposed church, there are zoning setback requirements from property lines, there are no covenants or restrictions placed on the property and staff has identified points of potential non-compliance to be mitigated with approval conditions. Commissioner Geise added the following conditions of approval; according to the growth policy the proposed subdivision lies within an urban area, according to the comments received from the City of Helena Planning Division, in 2013 there was a resolution of intention to annex the subject property into the City limits of Helena and was passed with conditions, the subject property was pre-zoned B-2 by the City of Helena, according to the City of Helena's Growth Property the subject property lies within an urban standards area and mixed use are, B-2 as commented by Dustin Ramoie and there was a recommendation from the City to deny the subdivision in a June 23, 2015 memo.

A motion was made by Commission Geise that after reviewing the draft findings of fact on Compliance with Zoning & Other Regulations and after considering public testimony at our hearing, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commission Geise that after reviewing the adopted findings of fact on Compliance with Zoning & Other Regulations and after considering public testimony at our hearing, 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 conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Murray stated that the Commission has now adopted findings of fact and conclusions of law for the proposed Subdivision. He asked if anyone had the opportunity to review the draft conditions of approval and if anyone is prepared to act on them.

Commissioner Geise stated that she has reviewed the draft conditions of approval that are intended to mitigate adverse impacts of the proposed 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: the requirement for the issuance of a Conditional Use Permit for the church on Lot G1-A-1, DEQ & County Planning review and approval of the stormwater drainage plan, DEQ review and approval of an erosion control plan, approval of a weed management plan, Fire protection requirements, plan approval for the individual mailbox, preparation of a final plat meeting all survey and regulation requirements, filing of restrictive covenants, installation or guarantee of all public

improvements, approval of address assignments for all lots, proof of title and payment of all taxes and preliminary approval term of 3 years.

A motion was made by Commission Geise that after reviewing the draft conditions of approval, to approve the conditions of approval as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Murray stated that the Commission now has acted on the variance request 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. He asked if anyone is prepared to act on the subdivision application as a whole.

A motion was made by Commission 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 our hearing, to grant approval of the subdivision request subject to the adopted conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Break/Reconvene.

**Proposed Cattle Baron Estates Subdivision (tabled 7/16/15) (Applicant: Varyn Land & Livestock, LLC) (Planner: Greg McNally)**

Greg McNally, Planner II, presented the proposed Cattle Baron Estates Subdivision. Greg McNally stated that today is decision day as it is the last day of the review period.

Commissioner Geise asked the applicant's representative if he has reviewed the staff report, conditions of approval and if they he had any comments. She also asked for clarification on the Professional Engineering Report variance request.

Tony Prothero, the applicant's representative, stated that he has reviewed all the materials and has no problems moving forward. In regards to the variance no. 2 for the Professional Engineering Report, was requested due to the nature of the percentage of impact to Sierra Road. The cost to do a PER is very high and believes the same result can be achieved by using a cost estimate that would be reviewed by the County Public Works Department. He also noted the PER could cost more than the cost of improvements.

Commissioner Murray stated that the Commission has reviewed the staff report, variance request, the presentations by staff and the applicant, and the draft findings of fact and conclusions of law and approval conditions. He asked if anyone 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 comment, to approve the subdivision request with conditions of approval needed to mitigate adverse impacts or to bring the project into compliance with regulations. The motion was seconded by Commissioner Murray.

Commissioner Murray stated that the Commission now has 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 first variance request. Those draft findings touch on the following information: two lots are double fronted, Lot A1C has frontage on Vallejo, Sierra and Lydia, Lot A1D has frontage on Sierra and Limousin, there are no exemptions covering the double fronted lots and no access restrictions will be applied to the double fronted lots and the double frontages are a result of the existing road network.



A motion was made by Commissioner Geise that after reviewing the draft findings of fact for the variances and considering public comment, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has reviewed the variance criteria that must be met by the applicant. Those variance criteria are the following: the granting of the variance would not be detrimental to public health, safety, or general welfare or injurious to other adjoining properties. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the standards were enforced. The granting of the variance would not cause a substantial increase in public costs. 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 comment, 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 2-0 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 comment, to approve the variance request as submitted by the applicant. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Murray stated that the Commission will next consider whether or not to approve the second requested variance 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: the issue is the means of calculating the proportional traffic impact and fee, the regulations require a preliminary engineering report (PER) for road improvement costs, the applicant wants to use a simpler engineering estimate, the applicant argues that an estimate is more sensible for the small project and the applicant is concerned the cost of the PER will be more than the impact fee.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact for the variances and considering public comment, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has reviewed the variance criteria that must be met by the applicant. These variance criteria have been read previously in the record.

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

Commissioner Murray stated that the Commission will next consider whether or not to approve the third requested variance 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: two of the proposed lots don't meet the road paving exemption criteria, the commercial lot will access a paved road, all other lots that access the road system are residential and two of the lots will share a driveway.

Finding of Fact No. 1 has been removed and added in the non-residential lot will be accessed off of Sierra Rd, an existing, paved, public road, promoting efficient transportation by limiting the amount of

new roads being created to serve the subdivision, the internal access road accesses the residential lots only, and all residential lots are over 2.5 acres, the subdivision was designed to keep the center pivot intact as much as possible, limiting the impacts on the natural environment and the Commission may grant a variance for innovative designs that address energy conservation, transportation efficiency, affordable housing, ADA accessibility, or preservation of the natural environment, which do not circumvent the purpose of the subdivision regulations.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact for the variances and considering public comment, to approve the findings as amended. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has reviewed the variance criteria that must be met by the applicant. These variance criteria have been read previously in the record.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and the variance criteria, and after considering public comment, to adopt a conclusion of law that the proposed subdivision variance request meets the variance criteria, the design of this subdivision minimizes the impacts on the natural environment and this design of the subdivision promotes transportation efficiency. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

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

Commissioner Murray stated that the Commission now has processed the variance requests and move on to consideration of the findings of fact, approval conditions, and a decision on the application as a whole.

Commissioner Geise stated that she has 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 soil mapping for the property, whether those soils are prime farmland soils, parts of the property are irrigated and agriculture will continue within the subdivision, there is an Irrigation District easement along one of the lots, the regulations require a setback and buffer along irrigation ditches and canals, there are agricultural uses to the west of the property, the Irrigation District requirements for this property and Staff has identified potential adverse impacts on Agriculture that can be mitigated.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on Agricultural Lands and Agricultural Operations and considering public comment, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and considering public comment, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on Agricultural Lands and Agricultural Operations but can be mitigated through conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Local Services. Those draft findings touch on the following information: Water & Wastewater Findings; the proposed means of water supplies and wastewater disposal, the soil mapping of the site, input from the Water Quality Protection District hydrologist on groundwater depths, his opinion that there should be adequate water for the proposed housing, groundwater testing indicates elevated nitrates in groundwater, groundwater in this area is susceptible to contamination, recommendations of the hydrologist for protecting wells from contamination, wells will draw from the Helena Valley Aquifer, well depths in the area average 125 feet, well yields in the area average 55 gpm, well depths in another section where this project is located average 83 feet, well yields in that section average 36 gpm, well logs from the area indicate an adequate water supply for the proposed lots, a well on the property is 101 feet deep, has a yield of 35 gpm, and recovers in 30 min, all water and wastewater systems must be reviewed and approved by DEQ and/or County Health, special septic systems will likely be required

because of the soils, a non-degradation analysis indicates safe nitrate levels will be met. Solid Waste Findings; the project will be served by the Scratch Gravel Solid Waste District. Mail Delivery; no mailbox plans have been submitted, mailbox plans must be approved by the Post Office prior to final plat. Utilities; utilities area available on Sierra Road, all added utilities must be placed underground, Roads and Traffic; the status and function of Sierra Road as a minor collector, the status and function of McHugh Lane as a minor collector, the status and function of Green Meadow Drive as a major collector, the status and function of Montana Ave as a major collector, the Level of Service for area intersections is rated "A", traffic studies indicate that the Level of Service on these intersections won't change, Sierra Road has posted weight limits, access to the subdivision will be restricted along Sierra Road except for the road entrance and one shared driveway, access will also be restricted along the western boundary of the internal access road, the anticipated traffic generation from the proposed lots, the anticipated trip distributions from the proposed lots, there will be a traffic impact on Sierra Road that must be mitigated, the estimated proportional share for road improvement costs is about 2%, the level of off-site road improvements needed would be a paved local road standard, the project should not negatively impact other road segments or area intersections, the applicant has requested a variance to the requirement for a Preliminary Engineering Report for calculating road improvement costs, a traffic peer review by DOWL supports the applicants traffic impact study conclusions, Emergency Services; St. Peter's Hospital is about 7 miles from the project site, the Sheriff's Department is about 6 miles from the project site, the property is in the West Helena Valley Fire Dept.'s jurisdiction, the applicant proposes to use their fill site located about .6 miles from the project, the Fire District has approved use of their water source for this project, Parkland; first minor subdivisions are exempt from parkland requirements, Mitigation on impacts of local service; Staff has identified adverse impacts to local services that can be mitigated with approval conditions.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on Local Services and considering public comment, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and considering public comment, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on Local Services but can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on the Natural Environment. Those draft findings touch on the following information: The lots will be served by individual wells and septic systems, the soil mapping for the property, the wells will be drawing from the Helena Valley Aquifer and should have sufficient water, elevated nitrate levels indicate the local aquifer is susceptible to contamination, special septic systems will likely be required because of the soils, groundwater monitoring for septic systems was done in June through August 2013, the applicant's engineering report claims that the septic systems will not degrade State waters, the nearest surface water is the D2 Drain, 700 feet to the north, a nitrate sensitivity analysis meets DEQ standards for drinking water, the phosphorus breakdown analysis also meets DEQ standards, DEQ and Health Department approvals are required for water and wastewater systems, a weed management plan will be required, the detention ponds will mitigate increases in surface runoff, minor visual impacts will be mitigated with underground utilities and lighting controls and Staff has identified impacts on natural resources that can be mitigated with approval conditions.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on the Natural Environment and considering public comment, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and considering public comment, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on the Natural Environment but can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has 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: Staff observed signs of wildlife during a site visit, occurrences of species and species of concern have been identified in the general area, the property is general habitat for wildlife, one lot is irrigated with alfalfa crop, 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 considering public comment, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and considering public comment, 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 2-0 vote.

Commissioner Geise stated that she has 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: some potential for groundwater contamination exists and can be mitigated through proper installation and maintenance of septic systems, there is an earthquake fault in the vicinity, there are also radon risks, the area has a low fuel hazard rating for wildfires, the area has a low rating for liquefaction susceptibility, a no access restriction will be placed along the Sierra Road frontage, a no access restriction will be placed along the internal access road and 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 considering public comment, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and considering public comment, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on Public Health and Safety but can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has 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 limited and 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, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and considering public comment, 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 2-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for Compliance with Subdivision Regulations and Survey Requirements. Those draft findings touch on the following information: the proposed conditions of approval will bring the project into compliance with subdivision regulations, a variance has been requested for the double frontage lots, a variance has been requested for the Preliminary Engineering Report requirement, a variance has been requested for the road paving, the proposal does not meet 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 considering public comment, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and considering public comment, 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 conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for Adequate Provision of Utilities. Those draft findings touch on the following information: The proposal doesn't include all required utility easements, utilities are available, Northwestern Energy had no comments on the project and Staff has indicated that required easements 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 considering public comment, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and considering public comment, to adopt a conclusion of law that the proposed subdivision will not have adequate Provision of Utilities but can be mitigated through conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for Adequate Provision of Access. Those draft findings touch on the following information: the applicant has proposed an internal access road and shared approaches, the internal road will be a paved local road unless a variance for paving is granted, the internal access road will provide access to 2 of the lots, an extension of Lydia Road will also be paved unless a variance is granted, a no access restriction will be placed along Sierra Rd, a no access restriction will be placed on lot A1D along the internal access road, the applicant will be required to obtain approach permits for all access points and Staff has indicated that legal & physical access 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 Access and considering public comment, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and considering public comment, to adopt a conclusion of law that the proposed subdivision will not have adequate Provision of Access but can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Geise stated that she has 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 and Staff has identified points of potential non-compliance that can 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 considering public comment, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and considering public comment, 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 proposed conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Murray stated that the Commission now has adopted findings of fact and conclusions of law for the proposed subdivision. He asked if anyone has had the opportunity to review the draft conditions of approval and are you prepared to act on them.

Commissioner Geise stated that she has 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: DEQ & County Health review and approval of the wastewater and water systems, approval of a weed management plan, approval of a storm water drainage plan, approval of an approach permit for the shared driveway on Sierra Road, approval of an approach permit for the internal subdivision road, approval of a vegetation management plan and water source for fire protection, if an on-site water system for fire protection is used, formation of an RID for maintenance, approval of the road plans prior to construction, payment of a proportional share for off-site road improvements to Sierra Road, approval of street addresses for the new lots, installation of a neighborhood mailbox unit meeting Postal Service requirements, preparation of the final plat meeting State survey requirements and containing all easements and restrictions, approval of road names, approval of a street signage plan, filing of restrictive covenants with notices to lot owners, creation of an RID for road maintenance, construction or bonding of the roads and utilities, proof of title and payment of taxes and Preliminary approval for a 3-year term subject to extension.

A motion was made by Commissioner Geise that after reviewing the draft conditions of approval and considering public comment, to approve the conditions of approval as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Commissioner Murray stated that the Commission now has adopted findings of fact and conclusions of law for the proposed subdivision. The Commission has also adopted conditions of approval that must be met prior to final plat. He asked if anyone is 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, the adopted conditions of approval and considering public comment, to approve the subdivision request subject to the adopted conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

#### **Public Hearing. Budget Increase from Property Taxes. (Nancy Everson)**

Nancy Everson, Finance Director, presented the increase in budget from property taxes stating it increases by .67 percent as allowed by the law and authorized by Montana Code Annotated 1510-420. The increase allowed local governments to increase property taxes by one half of the average rate of inflation. The estimated increase is \$141,869. Staff recommended approval of the increase. This is a public hearing and staff will present the resolution to adopt the increase in one week.

No public comment was received.

A motion to keep the public hearing open and adopt the increase during the regularly scheduled meeting held on July 28, 2015 was made by Commissioner Geise and seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

#### **Public Hearing. Lewis & Clark County's Proposed Budget for Fiscal Year 2016. (Nancy Everson)**

Nancy Everson, Finance Director, reviewed for the Commission, the budget, revenues, expenses and protested taxes and effects on the budget for FY16. She stated the County's debt service is very low at 1.3% The budget does include a 1.6% matrix adjustment and the addition of one new personnel position. There is an increase of 10% in the Water Quality District Fees. She asked the Commission to adopt the budget on July 28, 2015 at the regularly scheduled meeting.

No public comment was received.


A motion to keep the public hearing open and adopt the budget at the regularly scheduled meeting held on July 28, 2015 was made by Commissioner Geise and seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

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

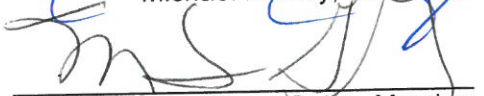
Adjourn

There being no further business, the meeting adjourned at 10:58 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