



## **PUBLIC MEETING**

July 23, 2020  
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, July 23, 2020, at 9:00 AM in Commission Chambers Room 330.

### **Roll Call**

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

Commissioner Jim McCormick was present. Commissioner Andy Hunthausen was out of the office on other County business. Others attending all or a portion of the meeting included Roger Baltz, Brent Colbert, Nicho Hash, Jacqueline Isaly, Chris Sinrud, Spencer Starke, Peter Italiano, Reese Martin, Theresa Ortega, Annie Kurtz, John Herrin, Brittany Hogan, Megan Peters, Tony Prothero, and Christal Ness, Recording Secretary.

### **Pledge of Allegiance**

Everyone recited the pledge.

### **Consent Action Items**

a. Vendor Claims Report for Week Ending July 24, 2020. (Marni Bentley)

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

No public comment was received.

A motion to Approve was made by Commissioner McCormick and seconded by Commissioner Good Geise. The motion Passed on a 2-0 vote.

### **Memorandum of Understanding Between Lewis and Clark County and Elkhorn Community Organizations Active in Disasters. (Reese Martin)**

Reese Martin, DES Coordinator, presented the memorandum of understanding (MOU) with Elkhorn Community Organizations Active in Disasters (COAD). There will be no monetary exchange. The MOU begins upon signature through August 1, 2021. The MOU establishes the working relationships, roles and responsibilities for the County and the COAD in working together during response to disasters and emergencies. Staff recommends approval of the MOU with Elkhorn Community Organizations Active in Disasters.

The COAD has been active for about a year and a half and is a local level form of the state level Volunteer Organizations Active in Disasters (VOAD). The goal is to form a group to coordinate the

response of the volunteers and local services and to streamline services to the community without duplication.

No public comment was received.

A motion to Approve was made by Commissioner McCormick and seconded by Commissioner Good Geise. The motion Passed on a 2-0 vote.

**Contract Between Lewis and Clark County and D-C Construction. (Brent Colbert)**

Brent Colbert, Sheriff's Office Captain, presented the contract with D-C Construction to construct the County morgue building. The building size would be 30'x30' and house a cooler unit, located at the County cemetery. Currently the County partners with St. Peter's to use their very small morgue. This should save the taxpayers money and be more efficient. The contract begins upon approval through October 31, 2020 and is not to exceed \$48,846. Staff recommends approval of the contract with D-C Construction.

Captain Colbert confirmed the structure would only house the refrigerated unit with no procedures to be conducted. The structure has been contemplated for years past.

No public comment was received.

A motion to Approve was made by Commissioner McCormick and seconded by Commissioner Good Geise. The motion Passed on a 2-0 vote.

**Contract Amendment Number One Between Lewis and Clark Public Health and Good Samaritan Ministries. (Jacqueline Isaly)**

Jacqueline Isaly, Community Health Promotion Division Administrator, presented the contract amendment to the existing contract with Good Samaritan Ministries for services related to the Our Place Drop in Center. Good Samaritan has been operating the center since March and selected through a competitive request for proposal (RFP) process. Ms. Isaly gave an overview of the purpose of the Drop in Center for those experiencing mental health or substance-use challenges that can seek peer support and get connected to other services in the community. The amendment extends the terms of the agreement through December 31, 2020 and increases the amount from \$48,300 to \$98,300. The funds are a combination of a Montana Department of Public Health and Human Services (DPHHS) grant in the amount of \$30,000 with \$20,000 from County Public Safety Initiative Levy funds. Staff recommends approval of the contract amendment with Good Samaritan Ministries.

Good Samaritan stepped in for management of the center on a short-term basis. They are doing a wonderful job providing the service and cultivating partnerships with other mental health providers. They will have the opportunity when a new RFP from DPHHS comes out in the fall to renew the funding that the County currently receives by applying for the funds directly and continue to provide the service.

**PUBLIC COMMENT -**

Theresa Ortega, Good Samaritan Ministries, thanked the Commission for trusting them to take over Our Place Drop-in Center and noted it has been a challenge. She distributed reports on what has occurred since starting at Our Place and the direction they are going in. They have a team that makes all this work.

Aaron Olson, Stahly Engineering, and has been on the Our Place Advisory Board since Good Samaritan took over. He has seen the effect on the consumers of the amazing services provided by Good Samaritan and they hope they can continue moving forward.

Dr. Gary Mihelish, NAMMI Helena President, stated he supports Good Samaritan in their efforts. They have brought a new vision. NAMMI is helping to provide funding for food and transportation. A working

relationship is developing with Montana State Hospital for folks to transition back into the community. Good Samaritan's services are greatly appreciated.

A motion to Approve was made by Commissioner McCormick and seconded by Commissioner Good Geise. The motion Passed on a 2-0 vote.

**Contract Amendment Number One Between Lewis and Clark Public Health and National Association of Chronic Disease Directors. (Jacqueline Isaly)**

Jacqueline Isaly, Community Health Promotion Division Administrator, presented the contract amendment with the National Association of Chronic Disease Directors. The amendment extends the existing contract for the continuation of participation in the national initiative called Reaching People with Disabilities through Healthy Communities. The purpose of the project is to reduce chronic disease by increasing access to nutrition and physical activity for individuals of all abilities. The funding provides resources specifically focusing on access for those with disabilities. The Healthy Communities Coalition and the Lewis and Clark Public Health Inclusiveness Committee actively and guide the project. The amendment extends the agreement period to end March 31, 2021 and increases the total contract amount from \$7,500 to \$9,750. Staff recommends approval of the contract amendment with the National Association of Chronic Disease Directors.

No public comment was received.

A motion to Approve was made by Commissioner McCormick and seconded by Commissioner Good Geise. The motion Passed on a 2-0 vote.

**Contract Between Lewis and Clark County and CompuNet, Inc. (Chris Sinrud)**

Chris Sinrud, Information Technology and Services Director, presented the annual contract renewal with CompuNet, Inc. The contract is to provide 24/7 emergency telecommunications support to the City and County. The contract is to assist IT&S with unfamiliar situations that may arise. The contract is an amount not to exceed \$12,000 and approved in the FY21 budget. It begins upon approval by all parties through June 30, 2021. Staff recommends approval of the contract renewal with CompuNet, Inc.

No public comment was received.

A motion to Approve was made by Commissioner McCormick and seconded by Commissioner Good Geise. The motion Passed on a 2-0 vote.

**Contract Between Lewis and Clark County and Arctic Wolf. (Chris Sinrud)**

Chris Sinrud, Information Technology and Services Director, presented the contract with Arctic Wolf for the security operations center and will assist IT&S in monitoring the network both inside and outside for all the hazards going on in the world that affect the network. In the past, there have been some incidents where additional help was needed. It will help in finding, identifying, preventing and schooling IT&S on how to make the network tighter and more secure. Arctic Wolf comes highly recommended by current vendor. Staff recommends approval of the contract with Arctic Wolf.

No public comment was received.

A motion to Approve was made by Commissioner McCormick and seconded by Commissioner Good Geise. The motion Passed on a 2-0 vote.

**Contract Between Lewis and Clark County and Montana Internet Corporation. (Chris Sinrud)**

Chris Sinrud, Information Technology and Services Director, presented the annual contract with Montana Internet Corporation to facilitate the upgrade and maintenance of the Wide Area Wireless Network infrastructure for radio and wireless replacements on the towers and the top of the buildings. The contract is not to exceed \$5,000 and expires June 30, 2021. Staff recommends approval of the contract with Montana Internet Corporation.

No public comment was received.

A motion to Approve was made by Commissioner McCormick and seconded by Commissioner Good Geise. The motion Passed on a 2-0 vote.

**Amended Plat of Myles Minor Subdivision (Applicant: Timothy & Elaine Myles) (Planner: Spencer Starke)**

Commissioner Good Geise stated there would not be a decision made on this today.

Spencer Starke, Planner I, stated he has spoken with the Applicant and if there is concern, he is amenable to an extension. Mr. Starke presented the amended plat of Myles Minor Subdivision. The project is located south of York Road, west of and adjacent to Hart Lane.

The proposal would create two lots, each approximately 2 acres in size with direct access onto Hart Lane. Each lot would have individual wells and wastewater treatment systems. The Applicant requested two variances, both concerning the off-site fire protection system (FPS). Two letters of public comment were received that expressed concerns regarding traffic, water availability, water quality and property values.

The Applicant proposes to use an off-site fire protection system (FPS) located in the Mud Springs Subdivision to satisfy their fire protection requirements, however, it does not meet two requirements of the Subdivision Regulations regarding traveled distance and traveling on or crossing an arterial or major collector roadway. Regulations require a one-mile distance to the FPS and the Mud Springs FPS is 3.4 miles away. It would also require the Tri-Lakes Fire Service Area to travel across Canyon Ferry Road, a major collector roadway. If the variances were approved, the Tri-Lakes Fire Chief provided a statement of no concern. Staff recommends conditional approval of the subdivision and denial of the two variances.

Commissioner McCormick asked about the second FPS suggested and Mr. Starke exists in close proximity, would not require a variance for crossing a major connector road, but has not been accepted by Tri-Lakes and therefore the applicant's ability to contribute to maintenance is in question.

Commissioner Good Geise read that the cost of installing the FPS in the subdivision would be a hardship. Discussion occurred on hardship criteria, noting that financial burden is not defined in the criteria of the subdivision regulations.

**PUBLIC COMMENT -**

Jacob Myles, 3666 E. Main, East Helena, stated the property in question is his parents' property and he wants to buy the second lot from them in order to help them in their retirement. His father is disabled and unable to collect firewood to heat their home. He wants his kids to grow up next to their grandparents. He plans to build a house that should increase the property values and if it becomes a concern with the concerned neighbor, a fence can be installed. Outbuildings exist between his lot and the neighbors.

Tony Prothero, J-T Engineers representing the applicant, discussed the variances noting this is a low impact of a subdivision with just two lots. They would have done a family transfer if an available option, but cannot do so on a lot created through a previous subdivision. Other than that, it meets the intent of a family transfer, but instead they need to meet subdivision regulations. There are numerous water supplies available in the area and he discussed the details of hydrants shown on the slide. The water supply within



Heron Creek Subdivision is anticipated to eventually be accepted. It would be closer; there would still be an issue with the distance, but no traveling on an arterial or major collector roadway. He understands financial considerations cannot be factored into the decision on the variance, but the hardship becomes having to construct a water supply that is not necessary for one additional home and from discussions with the fire protection professionals in the area, it is not necessary for one additional home. The proposed new home is about 200 feet from the existing home. Mr. Prothero explained the FPS in Mud Springs Subdivision was chosen as it is in a maintenance district owned by the Tri-Lakes Fire Service Area and was recommended by the prior Tri-Lakes fire chief.

Commissioner Good Geise and Mr. Prothero discussed the proximity of the FPS in the area with Heron Creek being the closest, but not complete and nothing within the mile requirement. There are two others closer than three miles.

Commissioner Good Geise asked if there are other agreements with other entities to use their services in case of an emergency. Peter Italiano, Community Development and Planning Director, noted Holmberg Estates has agreements with Canyon Ridge Subdivision and Red Fox Meadows Subdivision and is a good model where other folks could participate. He added it would probably reduce the number of variances in half.

John Herrin, 2855 Sundown Road, stated he is here to support the applicant. He commented about the need for amending the subdivision regulations of which he asked the County do so in December of 2018. He does not believe the fire regulations are reasonable and noted staff did not explain the reason for denial. He gave extensive discussion that built up to the suggestion of building regional FPS centers and subdivisions can contribute funds.

Nicho Hash, Deputy County Attorney advised because a decision is not going to be made today, public comment is still open and continued or additional public comment can be done in writing.

Commissioner Good Geise stated the Public Hearing would remain open.

A motion was made by Commissioner McCormick to table the item to July 28, 2020 and seconded by Commissioner Good Geise. The motion Passed on a 2-0 vote.

#### **Discussion and Direction Regarding Upcoming Vacancy of the Office of Treasurer/Clerk and Recorder. (Roger Baltz)**

Roger Baltz, Chief Administrative Officer, stated the Commission will consider the upcoming vacancy of the Treasurer/Clerk and Recorder position and discuss the roles and responsibilities the Commission regarding said vacancy. He added Paulette DeHart, Treasurer/Clerk and Recorder provided the three general qualifications required for office, links that show the duties of the clerk and treasurer. There is additional information provided by the County Attorney's Office in response to raised questions. He added Ms. DeHart provided notice of over two months before her departure from office.

Paulette DeHart, Treasurer Clerk and Recorder, noted she is making herself available for any questions. She urged the decision makers to keep in mind the clean audits and award winning reports. She added almost every one of her duties involves numbers.

Commissioner Good Geise stated it falls to the Commission to appoint a person to this elected office for the duration of the term. She noted last year the voters approved that all County electoral office elections be held as nonpartisan and explained the process. There will not be a job description because all the job duties are laid out in the Montana codes. By law the individual must reside in Lewis and Clark County, therefore there will not be a nationwide search.

The Commissioners discussed having an open public process. Commissioner McCormick added statute reads that because the vacancy occurs after July 31st before the general election during the second year

of the term, the appointed person shall serve the remainder of the term. At that point, the regular election cycle would begin. Commissioner Good Geise noted the Commission is charged with filling the position to ensure the continuity of the work done by the office. There will be the typical interview process to fill the position, with the selected candidate serving the 27 months to the end of term. The time of vacancy will be at a critical time with absentee ballots going out shortly thereafter. Montana has a robust constitutional right to privacy, an elected official has almost no expectation of a right to privacy and for anyone that applies that will be public information. The hope is to have someone in place as soon as practical.

Mr. Baltz added the vacancy will be advertised. The County Commissioners with the intent to have a decision made prior to the vacancy of the office on September 25, 2020 will conduct the public interviews. He suggested maybe the week of September 14th could be a decision target date. Discussion was had on getting the information out to the various media sources.

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

John Herrin, 2855 Sundown Road, stated the County has not addressed the subdivision deficiencies as he requested in December of 2018. He then came back in May when the County was looking at minor subdivision changes and requested two issues in the regulations be reviewed. The proposed zoning regulations could add another \$10,000 to \$15,000 per lot in his estimate by restricting the availability of land. He discussed housing prices compared to incomes in the Helena area. The affordability issues due to zoning and subdivision regulations are pricing lower and middle-income families out of the market. He discussed the cost of adding \$20,000 to \$40,000 extra in a housing price and cost of paying that off. He asked that an economic social impact assessment be done related to zoning and has been met with refusal. The reason for all of his presented information is laying the groundwork for a lawsuit because he believes if the County ignores what is factual and goes with something other than that they have a problem in court. The County needs to be risk adverse. The subdivision regulations are punitive, not warranted and need adjustment. If one segment of a population is required to do something and the other is not required, then there is a disparity. In addition, if that person is taxed or forced to put in fire protection in only new subdivisions and is not required of existing subdivisions that creates an economic disparity and is an example of a takings. He discussed subdivision regulations going to a parkland approach with a per lot assessment with that going to building structures where they need to be such as storage facilities and fire stations. He believes there would be a huge buy-in from subdividers if a regional FPS plan existed. In December, he asked the County to consider the one size fits all road design standard.

Commissioner Geise noted she understands the right for a person to comment and added there are opportunities for public comment every Tuesday and Thursday. She noted it would be more beneficial and effective for Mr. Herrin if he picked one or two issues per session rather than commenting on six or more issues at one time.

Mr. Herrin objected to the suggestion, noting it to be inappropriate. Again, he was interrupted and is very close to suing the County for procedural issues. On Tuesday, the Planning Department refused to allow him to testify. He has spent the better part of 16 years trying to get the County to do the right thing. He does not want to be doing this, but he felt it was his public obligation to try to protect the vulnerable people. He guaranteed, if the County polled people on the subdivision regulations and zoning, they would find opposition of the 10 acres. He has done the technical work, submitted written documents on what he believes is wrong with no factual basis for any of the five elements used as a basis for the zoning plan. Everything is getting harder and harder to go through the subdivision regulations and it only hurts the economy and the working relationships with everyone. Ditches are not necessary in the flat areas of the valley with a lot of grass. He added 90% of the older subdivisions do not have ditches and the roads are not falling apart. The County needs to address the subdivision regulations to allow engineers to come up with meaningful non-cookie cutter designs. The ditches are a safety issue as well.

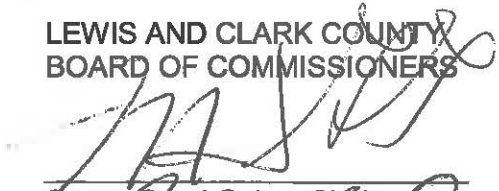
Commissioner Good Geise noted it is 11:00 a.m. and asked that Mr. Herrin finish up quickly.

Mr. Herrin believes the parklands and parkland dedication should be reviewed. He is not sure subdivision disqualification for family transfers is in Montana statute and encourages a review. He discussed the requirement of two entrances into a subdivision and thinks most counties do not have that requirement. On top of the requirement, the road has to meet County standards. The regulations were put in place to drive up the price of rural property and slow rural growth. It does not help for a better community or provider of services. The County has ignored his request to review the subdivision regulations since December of 2018. Forms of property ownership bias has crept into the regulations starting in 2005 and he requested that the County eliminate all. There is an unwritten but obvious effort to slow growth by driving up the development costs. The City and County got together to determine how to raise the rural property price to make connections to the under-utilized Helena City water and wastewater systems. It has not been demonstrated how the 2015 Growth Policy justifies where things are going. The survey sent out was extremely biased and anyone with objective rationale would say there was bias built into the way the questions were asked. The results put zoning at 11% as a solution to the problems, with roads way above it. Since 2005, why has the County avoided the fact that the County roads are in disarray with not enough funds to build good roads. There is a \$100 million County budget and the roads cannot be funded because of leadership. The only roads fixed beyond a band aid is when the Department of Transportation, every 10 years does a major project such as Custer Avenue. The County should be leading the charge on the section of York Road where a fifteen year old recently died. Six months before that occurred; he was told by the Department of Transportation that 5,400 cars travel on that road and their safety expert told him there are many priorities. Let us go back, solve problems and build the infrastructure.

**Adjourn**

There being no further business, the meeting adjourned at 11:10 am.

LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS



Susan Good Geise, Chair



Andy Munthausen, Vice Chair



Jim McCormick, Member

ATTEST:



Amy Reeves, Clerk of the Board