



PUBLIC MEETING

August 1, 2017
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, August 1, 2017, at 9:00 AM in Commission Chambers Room 330.

Roll Call

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

Commissioner Andy Hunthausen and Commissioner Jim McCormick were present. Others attending all or a portion of the meeting included Roger Baltz, Gail Benson, Wayne Benson, Brian Coplin, Sandy Green, Jerry Hamlin, Nicho Hash, Gayle Heard, Vince Heard, Jim Henry, Charles Lane, Greg McNally, Lindsay Morgan, Randy Rognlie, Jim Strachan, Glen Sutheimer, George Thebarga, Dave Zauner, Rosalie Zauner, and Nadine McCarty, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

- a. Resolution 2017-84 Declaring County Property Surplus Property. (Amy Reeves)
- b. Resolution 2017-85 Declaring County Property Surplus Property. (Amy Reeves)

Roger Baltz 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 McCormick and seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

Amended Subdivision Improvements Agreement for Amended Plat of Tract G1A - McHugh Subdivision No. 2. (Developer: First Assembly of God Helena Montana) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented the amended Subdivision Improvements Agreement (SIA) to change the parties from "Lewis and Clark County and McHugh Land and Livestock Co." to "Lewis and Clark County and First Assembly of God Helena Montana". The amended plat of tract G1A McHugh Subdivision No. 2, located west of and adjacent to McHugh Lane, north of and adjacent to Road Runner Street, and northeast of and adjacent to Cooney Drive was granted preliminary approval on July 21, 2015. Final approval of the Subdivision was granted on January 12, 2016. At the time of final approval, McHugh Land and Livestock Co. (Developer) enter into a Subdivision Improvements Agreement with Lewis and Clark County to guarantee the proposed

on-site fire protection system would be completed. According to the current SIA, the completion date is September 6, 2017. The current Irrevocable Letter of Credit in the amount of \$76,950 that accompanies the SIA would expire on October 6, 2017.

On behalf of the First Assembly of God Helena Montana, Sandy Green, the Board President is requesting that the First Assembly of God Helena Montana assume all obligations of the SIA from McHugh Land and Livestock Co. As part of the request a signed letter from Mr. Green requesting the assumption of the required improvements under the SIA and an Irrevocable Letter of Credit in the same amount as McHugh Land and Livestock current financial guarantee that will also expire on October 6, 2017.

Charles Lane, Deputy County Attorney stated it has been reviewed and is ready for signature. Mr. Lane asked that a church representative acknowledge that they are assuming all of the responsibilities under the SIA.

Ms. Morgan noted that the draft SIA still has the same completion date of September 6, 2017.

Sandy Green, President of the Board of the First Assembly of God Church, agreed that the church will assume all of the responsibility on the SIA. Mr. Green stated they are trying to annex into the City of Helena and weighing the two, but wanted to clear this up for McHugh. Ms. Morgan stated the City of Helena is looking to annex the property that the church is on. The annexation would not eliminate the SIA and would need to be addressed at a later time.

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

SIA Termination Agreement and Release of Security for Amended Plat of Tract G1A - McHugh Subdivision No. 2. (Developer: McHugh Land and Livestock Co.) (Planner: Lindsay Morgan)

Lindsay Morgan, Planner II, presented the Termination Agreement and Release of Security for the Subdivision Improvements Agreement (SIA) between Lewis and Clark County and McHugh Land and Livestock Co. as First Assembly of God Helena Montana has now taken over the obligations listed under the SIA for the Amended Plat of Tract G1A of McHugh Subdivision No. 2.

No public comment was received.

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

Request for Preliminary Conditional Approval for the Proposed Harvest Acres First Minor Subdivision and Variance Requests. (Applicant: Shawn and Catherine Toney) (Planner: Jim Henry)

Prior to the presentation Commissioner Good Geise asked that the applicant or a representative answer if they had reviewed the staff report. Randi Rognlie, Casne and Associates stated they have received the staff report and are ready to proceed.

Jim Henry, Planner I, presented the proposed first minor subdivision to be known as Harvest Acres Minor Subdivision. The proposed Subdivision is located north of U.S. Hwy 12 and adjacent to the northeast end of Prairie Nest Drive. The Applicant proposed to subdivide 20.44 acres into five lots, each with one single-family dwelling. The lots will range in size from 3.78 acres to 4.70 acres and will be served by individual wells, on-site wastewater treatment systems and utilities. Direct access to the lots will be via Lake Helena Drive, Remington Street, and the proposed internal access roads of Long Bow Drive and Long Shot Court. The Applicant has requested

three variances from the Lewis and Clark County Subdivision Regulations: Chapter XI.F.9 double fronted lots, Chapter XI.H.4 interconnected road network, and Chapter XI.H.16 construction of road extensions. Because this is a first minor subdivision dedicated parkland is not required.

During the review process issues that presented were: water availability; compatibility with the adjacent commercial trucking operation to the south; the growth policy; access and road interconnectivity and request variances.

Mr. Henry addressed the reference to the easement that was understood by Mr. Heard to be abandoned or vacated and stated it is not part of the proposal. The Applicant has proposed a variance requesting to not have to build the extension. Staff was unable to locate abandoned or vacated information related to Prairie Nest Drive. Mr. Henry noted with no evidence this does not weigh on the decision today. It could become an issue if the variance was denied.

Mr. Henry stated the Applicant has submitted a traffic impact study and the impacts have been reviewed with figured costs for improvements to U.S. Hwy 12, Lake Helena Drive and Remington Street if they are not up to County standards.

Mr. Henry gave an overview of the three variance requests.

Mr. Henry stated in reference to no access restrictions the county does not have code enforcement, no access restrictions are placed on the plat. If an approach was applied for it would be reviewed, staff would note the no access restriction on the plat and the request would be denied.

George Theborge, Director of Community Development and Planning addressed the growth policy and stated under Montana law growth policies are generally the legal basis for adopting land use regulations. A specific criteria that is in the subdivision regulations is that subdivisions must be consistent with the growth policy. The other part of the subdivision laws indicate that only those regulations that are adopted through a public review process can restrict the rights of property owners. The final analysis can only impose regulations that are concurrently contained in the subdivision regulations at the time of application.

PUBLIC COMMENT -

Randi Rognlie, Casne and Associates stated the staff report and the draft conditions of approval meet their approval and they hope the three variances are granted.

Commissioner Good Geise asked for discussion with Mr. Theborge, Charles Lane, and Mr. Henry regarding variances and their criteria, specifically if costs can be included as part of the criteria or if it is excluded. Mr. Theborge stated cost under the regulations is not a basis for granting a variance. It could be a factor, but not the controlling factor. Mr. Henry explained two ingress/egress routes are not required as the subdivision is a first minor subdivision.

Glen Sutheimer, stated he owns the property to the west of the proposed easement off of Remington. Mr. Sutheimer asked if the easement that comes off Remington Street is proposed to be paved and what improvements would have to be made to Remington Street.

Gail Benson, 4189 Remington Street, stated when they received the information it did not show the easements. Ms. Benson would like to know where the easement on the eastside heading north will go because if a road goes north of there her house would be on the curve.

Vince and Gayle Heard, stated they own the property to the west where the existing easement is located. Mr. Heard referenced the existing easement and was told that the Home Owners Association (HOA) put in an abandonment. There are concerns with the access to Prairie Nest

as it will cut into his property. The HOA maintains Prairie Nest, who will maintain it if this subdivision accesses it in the future. Regarding water rights, they will be next door to another well what can be done if their well goes dry.

Jim Henry addressed the questions: the extension to Remington will be a type I gravel road based on the number of trips generated; Remington Street improvements the applicant will have to pay a percentage of impact to improve the road to County standard based on the preliminary engineering report; the easterly easement as far Planning knows it stops at the subject property and construction of the easement is not part of the proposal; HOA abandoning Prairie Nest Drive to the west, there is no documentation to support that; maintenance of Prairie Nest Drive with additional traffic, the Applicant's request is to not use Prairie Nest Drive as access, if the request is denied there is the option of a Rural Improvement District; adjacent wells going dry due to the subdivision impacting the water table, that would be an issue for the Department of Natural Resources and Conservation (DNRC) to address; if not zoned residential can the lots be used for commercial, it is not currently zoned as residential, but that is the Applicant's intent and it is being reviewed as such, if a decision was made to go commercial another review process would occur.

Mr. Theborge stated the money is collected by the County, however there are no requirements of the Applicant to improve Remington Street, the only requirement is to pay a proportionate share of improvements.

Ms. Rognlie provided some clarity on the following: Remington Road, a neighbor asked how far away the road would be from his shop on Lot 2, his property would not be impacted it would be about 28 feet from the edge of the road; the wells, according to the new DNRC rules the property is allocated 10 acre feet per year amounting to 2 acre feet for each lot plenty of water for home and irrigation; additional dust on Remington, dust control will be provided during the road construction process a DEQ requirement, increase of traffic due to development of the lots would be a County maintenance issue; the easement along the eastside, the surveyors information shows it exists, it was not their position to research the validity, only to make sure there were easements giving connectivity to the subdivision; the McClellan Creek extension side the north property was not in their realm to do title research.

Ms. Rognlie noted that on Lot 1 there is an easement to be recorded that will allow a place for the fire well to be constructed and the fill site. The fire protection system will be open to the use of the local fire department and not restricted to just the five lots.

Rosalie Zauner, 4143 Remington, stated Remington Street is a private road and the county has nothing to do with it and asked if that changed. And if work has to be done, do homeowners on each side of the road need to contribute.

Dave Zauner, 4143 Remington, stated the dust from the trucking firm hinders visibility.

Mr. Sutheimer stated the main concern is dust due to additional traffic on Remington and the new proposed easement will be unbelievable. They thought that the new easement might be paved and that Remington would have dust control.

Mr. Henry stated Remington Road has been determined to be public via provided surveys.

Commissioner Good Geise stated the public hearing will remain open until decision day.

A motion was made by Commissioner Hunthausen to take the testimony heard under consideration and table the item to August 3, 2017 meeting for a decision. The motion was seconded by Commissioner McCormick. 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.

Jim Strachan, live in York stated he is hear to call for an independent investigation preferably the Department of Justice into the Lewis and Clark County Sheriff's Office and the Lewis and Clark County Attorney's Office.

Charles Lane, Deputy County Attorney stated this is open for public comment, if anything delves into a privacy concern of anyone then he would advise to choose words carefully.

Mr. Strachan believed that the County Attorneys knew of why he was in attendance. Mr. Strachan stated he has about 20 years worth of notes and journals regarding his interactions with Fish, Wildlife and Parks; Lewis and Clark County and the Forest Service of which he has had many grievances. He was very active in public comment and organized a meeting about 35 years ago regarding public access to public lands across some private property. All landowners from the area, representatives from Fish, Wildlife and Parks, the Forest Service, and sportsman that use the area were in attendance. Mr. Strachan stated he tried to go about things the correct way, but ran into issues. Much of this does not involve Lewis and Clark County, but he wants to paint a picture of what he faced and the collusion between Lewis and Clark County; the Feds; Fish, Wildlife and Parks; and the State.

Mr. Strachan proceeded to read from his notes and journals referencing: the blockage of a road and the interrogation by a law enforcement officer of the Forest Service in the late 80s and early 90s multiple times.

Mr. Strachan does not know how he got on a list where he can be stopped and harassed, his house could be searched, where agents could follow him to other states and have charges brought against him, his daughter's house search and she has had criminal investigators living in her basement. He has gone to many different people including: former Senator Conrad Burns and Senator Jon Tester, the ACLU. Mr. Strachan has four boxes of various charges that never have a trial date, there is just a report and they just go away. The due process never occurs for him to inquire why these things keep happening and he has no legal recourse.

Commissioner Good Geise asked the County Attorneys what kind of recourse a citizen has. Mr. Lane assured Mr. Strachan that he is not familiar with his name or situation. Mr. Lane would advise Mr. Strachan with his attorney's guidance to put his notes in a formal complaint that can be submitted to Lewis and Clark County and the County Attorney's Office.

Mr. Strachan stated he met earlier in the week with the Lewis and Clark County Sheriff's Office with a witness and tape recorder present this time. A major part of this is the cover ups of who knew what when and what was done. Commissioner Good Geise suggested a form of complaint be filed and asked Mr. Lane of a process. Mr. Lane is not on the criminal side and not familiar with the process, but can find that out for Mr. Strachan. Mr. Strachan is in attendance to have this on the public record so no more cover ups occur.

Commissioner Good Geise noted others have come into the room for another meeting and the public meeting needs to adjourn in just a few minutes; she suggested to Mr. Strachan to discuss with his attorney and see if he would be willing to have the documents entered into the official record. Commissioner Good Geise asked Mr. Strachan if that was acceptable to him and Mr. Strachan stated it was not acceptable and he would like to read the documents. If the room is in use right now he would like to come back when he can address the Commission and there is more time.

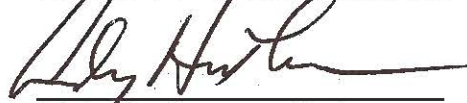
Commissioner Hunthausen reiterated that public comment is for something that is not on the agenda and is under the jurisdiction of the Commission. If there is something that is County

related; they can hear that and he asked Mr. Strachan to stick to that part of it. Mr. Strachan noted this is in collusion with Lewis and Clark County as they were conducting a surveillance from his neighbor's house and he recognized people that he had dealt with. All the offices tell him they do not have the investigative authority. Mr. Strachan jumped ahead in his notes and proceeded to read from notes of January 26, 2005 describing the incident, he read from notes of February 16, 2005 describing another incident involving sheriff deputies.

Adjourn

There being no further business, the meeting adjourned at 10:50 am.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Andy Hunthausen, Chair

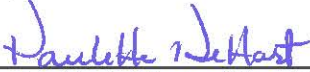


Jim McCormick, Vice Chair



Susan Good Geise, Member

ATTEST:



Paulette DeHart, Clerk of the Board