



## **PUBLIC MEETING**

August 18, 2020  
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, August 18, 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 Andy Hunthausen and Commissioner Jim McCormick were present. Others attending all or a portion of the meeting included Nancy Everson, Nicho Hash, Peter Italiano, Jessica Makus, Reese Martin, Christal Ness, Kevin Wright, and Nadine McCarty, Recording Secretary.

### **Pledge of Allegiance**

Everyone recited the pledge.

### **Consent Action Items**

There were no consent action items.

### **Grant Award to Lewis and Clark County from the Montana Disaster and Emergency Services. (Reese Martin)**

Reese Martin, Disaster & Emergency Services Coordinator, presented the Performance Reverted Funds grant award from the Montana Disaster and Emergency Services in the amount of \$40,000. The grant is a 50/50 match with the grant providing \$20,000 and the County providing \$20,000 for the purchase of a new vehicle for the Lewis and Clark County Disaster and Emergency Services Division. The grant period begins August 1, 2020 through October 31, 2020. Staff recommends approval of the grant from the Montana Disaster and Emergency Services Division.

Mr. Martin stated the vehicle to be replaced is a 2004 Ford Escape and the replacement vehicle will be a pickup to allow for mobile access of a generator as needed.

No public comment was received.

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

### **Resolution 2020-65. To Levy and Assess the Lake Home Road Rural Improvement District No. 2020-01. (Jessica Makus)**

Jessica Makus, Special Districts Program Coordinator, presented the resolution to levy and assess an annual special assessment of \$301.41 for a ten year debt service upon benefited properties within the Lake Home Road Rural Improvement District (RID) to provide improvements to Lake Home Road. The resolution also includes an annual special assessment of \$47.81 upon benefited properties to provide annual maintenance of the improvement on Lake Home Road. The RID is located east of and adjacent to York Road and west of and adjacent to Hauser Lake. The Commission approved Resolution 2020-49 to create the District on July 28, 2020. The District was created as a result of a petition submitted by residents within the district. The general improvements includes an asphalt overlay over the road, chip sealing, and the installation of valley gutters for drainage. The general maintenance includes, but is not limited to, future chip sealing, crack sealing, snow plowing, sweeping, signage, and other necessary maintenance to preserve the road surface. Legal notice of the public hearing was published and mailed to all property owners within the district. As of August 17, 2020, no written comment had been received. Staff recommends approval of the resolution.

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.

**Resolution 2020-66. To Levy and Assess a Tax Upon Benefited Property Within the Hauser Lake Estates Rural Improvement District No. 2007-2. (Jessica Makus)**

Jessica Makus, Special Districts Program Coordinator, presented the resolution to levy and assess an annual special assessment of \$87.00 upon benefited properties within the Hauser Lake Estates Rural Improvement District (RID) to provide for maintenance of roads located within the subdivision. The RID is located north of and adjacent to Deal Lane near the intersection with York Road. The Commission approved Resolution 2007-28 to create the District on March 15, 2007. The District was created as a result of a petition submitted by the developer in accordance with the condition subdivision approval. The District was amended by Resolution 2013-44 on May 16, 2013 to amend the district boundary to include an additional benefiting property. The general maintenance includes road grading, addition of gravel, weed control, snow removal, signage, and other maintenance and repair as necessary to preserve the road surfaces. Legal notice of the public hearing was published and mailed to all property owners within the District. As of August 17, 2020, no written comment had been received. Staff recommends approval of the resolution.

**PUBLIC COMMENT -**

Steve Pomeroy, property owner, stated he has had the property about two years. The road has been in existence for 13 years with no maintenance by the County, the property owners do their own plowing and the road is in good shape. With 21 property owners he thinks the bill would come to about \$6,000 annually for the subdivision and it seems excessive. He objects to the charge.

Ms. Makus explained the District was created in 2007 and not levied and assessed. It was amended in 2013, again it was not levied and assessed. This was brought to her attention and will now levy and assess the RID. To date, no funds have collected and the reason no maintenance has occurred. Back assessments cannot be collected, this assessment will start on the next tax roll and moving forward the mentioned services will be received by the District. The originally estimated maintenance was reviewed and the assessment amount was lowered from \$257.56 to \$87.00 per resident, moving forward the goal is to analyze the districts on an annual basis to determine if an increase or decrease is necessary.

Commissioner Good Geise informed the public the funds are all dedicated only to that RID and the books are always available.

Danielle Brooks, lives in Hauser Lake Estates, stated they have been there for four years. The residents maintain the roads. The concern is if it is forced upon the property owners, whether they agree or not, how does the County benefit from the funds, used for something else or earned interest. The property owners do not benefit as they maintain the roads themselves and they all pitch in as neighbors, so if it is not needed why are they being taxed.

Commissioner McCormick asked how it works legally, if property owners choose not to be assessed and the RID has already been created at the request of the District.

Nicho Hash, Deputy County Attorney, explained when property is divided, most of the time an improvement district is also created. When it was created either the developer owned just one lot or all of those lots and that is the time when protest out would have occurred. Moving forward, once people move into the District they can voice their concerns, but they will be within the RID as long as it has a serviceable life.

Commissioner Good Geise stated this RID was created as a condition of subdivision approval when the subdivision was granted.

Commissioner Hunthausen commended the neighborhood, but added overtime neighborhoods change. An RID organizes the maintenance and all those that use the roads benefit. The County normally contracts the work out and that ensures the contractor has the necessary requirements such as experience and insurance should a mishap occur.

Ms. Makus added the RID account funds are collected, remain in the account and any unused funds rollover to the following year and gains interest that stays in the RID account.

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

**Contract and Encroachment Agreement Between Lewis and Clark County and the Estate of Esther Heppner. (Christal Ness)**

Christal Ness, Development Services Supervisor, presented the contract and encroachment agreement with the Estate of Esther Heppner for a septic system located in the platted underground utility easement of Lot 1 of the Wild Wind Minor Subdivision. The encroachment was identified in 2007, immediately after installation, however, the lender at that time did not request a contract and encroachment agreement. The estate is selling the property and the new lender is requesting a contract and encroachment agreement. It has been determined there are currently no utilities located in the easement. Staff recommends approval of the contract and encroachment agreement with the Estate of Esther Heppner.

Commissioner McCormick stated it looks like one septic tank is within the property boundary, the second tank is just in the easement and the drain field is in and out of the easement. The easement appears to be approximately 10 feet on the side yard, not 20 feet.

Ms. Ness explained when the subdivision was platted 20 foot utility easements were required. Because the subdivision was a long strip of property there is a 20 foot utility easement on the north and south sides with the side yards sharing a 20 foot utility easement.

Commissioner McCormick asked if there are any other utilities that would utilize the easement and Ms. Ness noted the utility companies drive out there, look at the utility locates on the ground. A verbal response was given to Ms. Ness that all is good. In the future, if a utility company wants to use the easement, the County can request the property owner to relocate the drain field to the accepted replacement drain field area located south of the existing drain field with a 60-day notice.

Commissioner Hunthausen stated now when subdivisions are created a utility plan is done with the utility company and developer agreeing on a plan where utility easements are necessary rather than around every lot.

No public comment was received.

A motion to Approve was made by Commissioner Hunthausen and 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.**

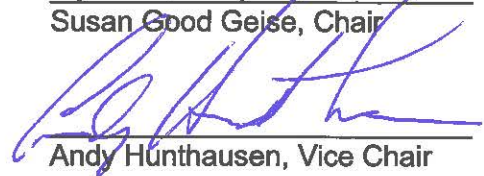
**Adjourn**

There being no further business, the meeting adjourned at 9:56 am.

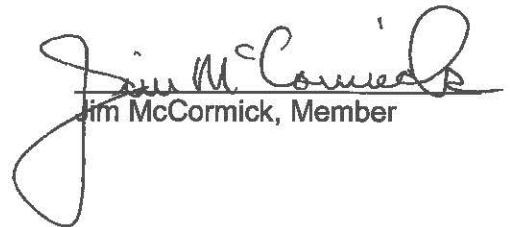
LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS



Susan Good Geise, Chair



Andy Hunthausen, Vice Chair



Jim McCormick, Member

ATTEST:



Paulette DeHart, Clerk of the Board