



PUBLIC MEETING

August 22, 2017
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, August 22, 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, Eric Griffin, Nicho Hash, Katie Jerstad, Lindsay A. Morgan, Christal Ness, Jesse Whitford, Brent Colbert, Dan Karlin, Eric Griffin, Paul Spengler, Joe Mueller, Kim Wilson, Dave Sammons, Sheriff Leo Dutton, Penny Koehler, Rita Naylor, Kim Wilson, Dave Sammons, Chuck Fisher, Kari Frydenlund, Rick McAlmond, Kristina Lemon, Robert Lemon, John Ward, Kay Ward, Don Zimmerman, Pat Gilmore, Pat Glueckert, Frederick Jackson, John Naylor, Joe Steward, Bill Bridier, Cherche Prezeau, and Misty Edwards, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

There were no consent action items.

Resolution 2017-115 Approving Modified Road Plan as Contemplated in the Amended Judgement Dated March 20, 2015 in Lewis and Clark County v. Greg Hampton, cdv 2009-525. (Katie Jerstad)

Katie Jerstad, Deputy County Attorney, presented the resolution to approve the modified road improvement plan as proposed by Mr. Greg Hampton as a means to comply with a portion of the court's amended judgment in the lawsuit brought against the County. In September 2004 the Commissioners, at the request of Mr. Hampton, approved lifting the agricultural covenant on his property on numerous conditions, including that he make improvements to the affected sections of Lodgepole and Sweetgrass Roads to meet County road standards applicable at that time. The County brought an enforcement action when staff learned that Mr. Hampton had built a

home on the property without meeting this condition. The Montana Supreme Court held that Mr. Hampton was required to make those required road improvements. On remand, the District Court stated that Mr. Hampton would be responsible for the entire cost of upgrading a portion of Lodgepole and Sweetgrass Roads unless Mr. Hampton and other landowners accessing their properties agreed on a more extensive degree of upgrade. Mr. Hampton and other landowners whose property are affected by this have reached an agreed upon road improvement plan that county staff has reviewed and approved as an upgrade consistent with County standards. Upon completing the road improvements, Mr. Hampton will need to file a Certificate of Survey with the Clerk and Recorder's Office before the agricultural covenant will be lifted.

Dan Karlin, County Engineer, presented the modified road improvement plan. Mr. Karlin stated that Sweetgrass Road will be paved at a width of 16' and turn out areas will be added to the road.

PUBLIC COMMENT -

Kim Wilson, attorney with Morrison Sherwood Wilson and Deola Law Firm, concurs with the County Attorney. Mr. Wilson thanked County staff for working with Mr. Hampton and himself over the past year to come to an agreement on this issue. Mr. Wilson urged approval of this resolution.

Cherche Prezeau, attorney with Christensen and Prezeau, representing affected neighbors, thanked County staff and Mr. Wilson for working to come to an agreement on this project. The neighbors are satisfied with the agreement.

Joe Mueller, 2002 Sweetgrass Road, thanked everyone involved in this process. Mr. Mueller stated that he supports the road improvement plan.

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

Resolution 2017-116 Amending the Stage One Fire Restrictions Proclamation. (Paul Spengler)

Paul Spengler, Disaster & Emergency Services Coordinator, presented the resolution to amend the Stage One Fire Restrictions Proclamation adopted on August 3, 2017. The proclamation did not adequately articulate whether Stage 1 restrictions applied to campfires on private or public property and such language was added to this resolution. The resolution stated what is prohibited and what is considered an exemption to the Stage One Fire Restrictions. Campfires on public or private land are allowed under this resolution only if they are within an improved fire ring or pit made of solid metal, stone or cement and no larger than 48 inches across. Staff recommends approval of the resolution.

Commissioner Geise stated that she was concerned about allowing any kind of campfire, whether it's on private or public property. She stated that due to the dry conditions that exist, all campfires, whether on public or private, are dangerous.

PUBLIC COMMENT -

Brent Colbert, Captain Lewis and Clark Sheriff's Office, stated that the language needs to be added to allow for correct enforcement.

Dave Sammons, East Valley Fire Chief, stated that the proclamation was vague in determining if the general public could or could not have a camp fire. He added that the language is necessary to clarify that issue and allow for enforcement.

Leo Dutton, Lewis and Clark County Sheriff, stated that the County is still in Stage 1 fire restrictions and this resolution will clarify what is and is not prohibited and exempt. Sheriff Dutton stated that because we are still in Stage 1 restrictions, certain campfires are allowed and this resolution will define under what circumstances they are allowed. He added that moving to State 2 restrictions will be done unilaterally with all agencies.

A motion was made by Commissioner McCormick to amend the resolution to move *Exemption A* to the prohibited list. The motion was seconded by Commissioner Geise. Upon discussion, Nichol Hash, Deputy County Attorney, explained why certain fires were on the exemption list. After explanation, Commissioner McCormick withdrew his motion.

A motion was made by Commissioner McCormick to approve the resolution to amend the proclamation as presented by staff. The motion was seconded by Commissioner Geise. The motion passed 2-1 with Commissioner Geise opposing.

Ordinance 2017-1 Establishing a Speed Limit on a Section of Lake Helena Drive. Second Reading. (Eric Griffin)

Eric Griffin, Director of Public Works, presented the second reading of the ordinance establishing the speed limit on a section of Lake Helena Drive, north of the East Helena City Limits to the Causeway at Lake Helena. The speed limit will be 45 miles per hour from Boundary Street to Deal Lane and will remain 35 miles per hour on the gravel section from Deal Lane to the Causeway. The speed limit shall take effect 30 days after the second reading and approval of the ordinance. Staff recommends 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.

Ordinance 2017-2 Establishing a Speed Limit on a Section of Valley Drive. Second Reading. (Eric Griffin)

Eric Griffin, Director of Public Works, presented the second reading of the ordinance establishing a speed limit on a section of Valley Drive, north of the East Helena City limits and York Road. The speed limit shall be reduced to 25 miles per hour from the East Helena City limits to the intersection of Prickly Pear Avenue. From Prickly Pear Avenue to York Road the speed limit will remain the same at 35 miles per hour. The speed limit change will take effect

30 days after the second reading and approval of the ordinance. Mr. Griffin added that County staff worked with the City of East Helena mayor and staff and that they support these new speed limits. Staff recommends 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.

Ordinance 2017-3 Establishing a Speed Limit on a Section of Wylie Drive. Second Reading. (Eric Griffin)

Eric Griffin, Director of Public Works, presented the second reading of the ordinance establishing a speed limit on a section of Wiley Drive, north of the East Helena City Limits to York Road. The speed limit shall be lowered from the posted 55 miles per hour to 45 miles per hour. The change will take effect 30 days after second reading and approval of the ordinance. Staff recommends 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.

Resolution No. 2017-106 Levying and Assessing a Tax Upon Benefited Property within the Applegate Meadows Rural Improvement District No. 2017-10 (Planner: Lindsay A. Morgan)

Lindsay A. Morgan, Planner II, presented the resolution to levy and assess a tax upon the benefited properties within the Applegate Meadows Rural Improvement District (RID) No. 2017-10 for maintenance of the road network. The applicant for the subdivision had petitioned to create the RID when the subdivision was completed in 2008, but somehow the RID was never actually created. The RID was formally established on August 3, 2017 and the amount to be levied and assessed until otherwise modified by a resolution will be \$210.73 annually. The current assessment is \$0 as this is the first time this RID has been levied and assessed. Legal notice of the public hearing was published and mailed to all property owners and as of August 22, 2017, no written testimony was received.

Jesse Whitford, Public Works Construction Project Manager, stated that the money from this RID will be used for a chip seal, street sweeping, snow removal and general maintenance as well as saving for a future chip seal. Mr. Whitford added that the costs are inflated at this time because the RID has not been collecting money the past 9 years and that a chip seal will be needed soon. It is highly likely that the annual assessment will go down in 4 years.

PUBLIC COMMENT -

Frederick Jackson, 532 Guettler Road, purchased home in this subdivision approximately 7 years ago and stated that he is opposed to this levy and assessment as he feels it is too much for just snow removal. Mr. Jackson was concerned that the homeowner's association had been collecting fees for these sort of items.

Commissioner Hunthausen stated that the homeowner's fees will not be used for road maintenance, chip sealing, street sweeping or snow plowing. He recommended that Mr. Jackson speak to the homeowner's association about their fees.

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

Resolution No. 2017-107 Levying and Assessing a Tax Upon Benefited Property within the Saddle Rock Fire System Rural Improvement District No. 2016-2. (Planner: Lindsay A. Morgan)

Lindsay A. Morgan, Planner II, presented the resolution to levy and assess a tax upon benefited properties within the Saddle Rock Fire System Rural Improvement District (RID) No. 2016-2 for maintenance of the fire protection system. The amount to be levied and assessed until otherwise modified by a resolution will be \$189.00 annually. The RID was created on August 16, 2016 and this is the initial levy and assessment of this RID. Legal notice of the public hearing was published and mailed to all property owners and as of August 22, 2017, no written testimony was received.

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 2017-100 to Levy and Assess a Tax Upon Benefited Property Within the Emerald Ridge Rural Improvement District No. 2015-5. (Tabled 8-17-17) (Planner: Matt Heibel)

Lindsay A. Morgan, Planner II, presented the resolution to levy and assess a tax upon the benefited properties within the Emerald Ridge Rural Improvement District (RID) No. 2015-5. This item was tabled from August 17, 2017 to allow for more information to be gathered. Public comment and testimony from the August 17, 2017 will be included as part of the record. As of August 22, 2017 one public comment was received. The current assessment is for \$58.28 for maintenance and \$180.95 for debt. The assessment will be used for maintenance of the internal road network. The resolution will need to be amended to reflect the decrease in the assessment to \$215.84 to go from a 7 year cycle on a chip seal to a 9 year cycle. Moving the chip seal from 7 years to 9 years lowers the amount of the assessment and gives the RID 2 additional years to save for a chip seal project.

PUBLIC COMMENT -

Joe Stewart, 4369 Rio Road, does not feel due diligence has been pursued in this matter. He added that he does not feel the residents of this RID should be penalized with such a large increase due to an error by County staff.

A motion was made to by Commissioner Hunthausen to approve an amended resolution to reflect the change in the assessment to \$215.84. The motion was seconded by Commissioner McCormick. The motion passed 3-0.

Resolution 2017-108 to Increase the Fire Service Fee Within the York Volunteer Fire Service Area. (Presenter: Matt Heibel)

Lindsay A. Morgan, Planner II, presented the resolution to increase the Fire Service Area Fee within the York Fire Service Area. The York Fire Service Area Board of Trustees voted to recommend that the County Commissioners approve an increase of \$50.00 from \$150.00 to

\$200.00 annually to all property owners with a structure located within the York Fire Service Area.

PUBLIC COMMENT -

Rita Naylor, 5380 Jimtown Road and Treasurer of the York Fire Services Board, gave an overview of expenses for the York Fire Department. Their FY17 expenses total approximately \$50,200 but their revenues are less at approximately \$41,000. The last increase was approximately 10 years ago so they are looking for an increase to help cover the costs of inflation. Ms. Naylor added that one of the goals of the York Fire Department is to decrease the ISO rating of the York area by adding an additional station; this will help lower homeowner's insurance costs.

John Naylor, York Fire Department Chief, stated that the York Fire Service Area is approximately 110 square miles and is spread out. On an average call, 5-7 volunteers respond. The department has 16 volunteers and they do over 2,000 hours of training annually. He urged the Commissioners to pass this resolution.

Bill Bridier, 7415 Wildcat Street, stated he is grateful for the York Fire Department but is concerned that a detailed cash flow was never presented to the residents so he is unable to make an informed decision on whether he should support or oppose the requested increase.

Kay Ward, York resident, appreciates the volunteer fire department but was unaware of the increase as notice was not sent to residents; the only notification was posted on the door of the York Community Hall. They are not for or against the requested increase until they can see a budget and cash flow.

Jim Strachan, 8187 York Road, stated there is confusion among residents about the relationship between the York Fire Department and the York Community Association and the rental of the property and building. He would also like to see an accounting of the budget.

Donald Zimmerman, York volunteer fireman, stated that the public is invited to board meetings and that the budget is presented at those meetings but the general public never attends those meetings.

Chuck Fischer, York resident, and former York Fire Department board member, stated that he doesn't feel that all of the anticipated improvements are needed; such as retrofitting a tanker into a fire engine at a cost of \$60,000. He is opposed to the increase.

David Olson, 84 York Road, stated that an emergency community meeting could be called to discuss the increase if the Commissioners felt it was necessary.

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

Resolution 2017-109 Levying and Assessing a Tax Upon Benefited Property Within the Tenmile Rural Improvement District No. 1997-2. (Presenter: Matt Heimel)

Lindsay A. Morgan, Planner II, presented the resolution to levy and assess a tax upon the benefited properties within the Tenmile Rural Improvement District (RID) for maintenance of the road network. The proposed rate increase from \$140.00 to \$300.00 was requested by the

property owners within the RID. The RID was created in 1997 and the assessment rate has not increased since that time. On August 14, 2017, it was suggested that the resolution be put on hold until next year to allow for informational public meetings prior to reconsidering the proposed increase.

Jesse Whitford, Public Works Construction Project Manager, stated that if the Commissioners did not want to increase the assessment that much, they could increase it based on inflation to a rate of \$215.40. The current balance in the fund is approximately \$91,447 however, some maintenance did occur this summer which has not been paid yet so that balance will decrease. The last chip seal done in this RID was in 2014.

A motion was made by Commissioner Hunthausen to amend the assessment rate to \$215.40 and approve the resolution as amended. The motion was seconded by Commissioner McCormick. The motion passed 3-0.

Resolution 2017-74 Discontinuing a Segment of an Alley in the Ames Addition of Helena. (Tabled 7/18/17) (Planner: Matt Heimel)

Christal Ness, Ombudsman, presented the resolution to discontinue a portion of alley in the Ames Addition of Helena. This item was tabled from July 18, 2017 to allow for further legal review. Preliminary conditional approval was granted by the Commission on July 14, 2016 subject to 4 conditions. Three of the four conditions have been satisfied. A boundary line relocation, in conjunction with the filing of a new deed if the applicant chooses to pursue ownership must be done to satisfy the fourth condition. The applicant must file the Certificate of Survey that contains the information required under condition of approval number 1 within one calendar year of the Commission granting this approval. Ms. Ness has added language to the resolution so that the County retains the 30' utility easement for the overhead utility line that is in the alley.

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.

Contract and Encroachment Agreement Between Lewis and Clark County and Donald A. Hinman. (Tabled 7/18/17) (Christal Ness)

Christal Ness, Ombudsman, presented the contract and encroachment agreement with Donald Hinman for the utility easement created by the Amended Plat for the Ames Addition to the City of Helena. This item was tabled on July 17, 2017 to allow further legal review of Resolution 2017-74. Due to the approval of Resolution 2017-74, this item is necessary to allow for the garage within the utility easement.

No public comment was received.

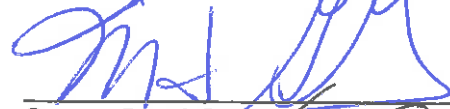
A motion to Approve was made by Commissioner McCormick and seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

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

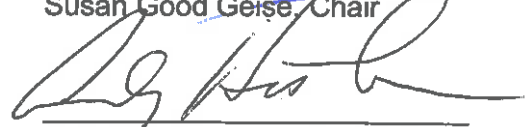
Adjourn

There being no further business, the meeting adjourned at 12:41 pm.

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