



PUBLIC MEETING

August 25, 2016
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, August 25, 2016, at 9:00 AM in Commission Chambers Room 330.

Roll Call

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

Commissioner Susan Good Geise and Commissioner Andy Hunthausen were present. Others attending all or a portion of the meeting included McKenzie McCarthy, Michele Peterson-Cook, K. Paul Stahl, George Theborge, Audra Zacherl, Paulette DeHart, Karie Frydenlund, Eric Merchant, Paul Spengler, Lindsay Morgan, Willie Widhalm, Frank Gruber, Michael Brenna, Patrick Webb, Gilda Clancy, Peter Anderson, Jacki Pierson, Joe Nistler and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

a. Vendor Claims Report for Week Ending August 26, 2016. (Marni Bentley)

McKenzie McCarthy reported on consent action item 2 a and recommended approval.

No public comment was received.

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

Bid Award- One New Model Year 2017 Wheel Loader. (Audra Zacherl)

Audra Zacherl, Assistant Public Works Director, presented the bid award for the 2017 wheel loader. Eight bids were received and staff recommends awarding the bid to the low bidder in the amount of \$190,070 for one 2017 Caterpillar 938M Wheel Loader.

No public comment was received.

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

Bid Award- Lewis and Clark County Landfill Phase II Closure Construction. (Audra Zacherl)

Audra Zacherl, Assistant Public Works Director, presented the bid award for the Phase II closure construction. Eight bids were received and staff recommends awarding the bid to the low bidder, Montana Civil Contractors Inc., in the amount of \$124,647. Construction completion is estimated to be completed in November 2016.

No public comment was received.

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

Resolution 2016-77 Ordering the Cancellation of Delinquent Property Taxes on Mobile Home or Housetrailer. (Paulette DeHart)

Paulette DeHart, Treasurer/Clerk & Recorder, presented the resolution ordering the cancellation of delinquent property taxes on a mobile home or housetrailer. The mobile home has been abandoned and there is no value to the mobile home. The owner of the mobile home is requesting the cancellation of the delinquent taxes in the amount of \$386.03.

No public comment was received.

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

Contract Agreement Between Lewis and Clark County and Dr. William Snider. (Eric Merchant)

Eric Merchant, Disease Control and Prevention Administrator, presented the contract between Lewis and Clark County and Dr. William Snider. The medical advisor contract agreement is in the amount of \$1,800.00. The contract agreement begins September 1, 2016 through August 31, 2017.

No public comment was received.

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

Contract Between Lewis and Clark County and Tetra Tech. (Paul Spengler)

Paul Spengler, DES Coordinator, presented the contract between Lewis and Clark County and Tetra Tech for revisions to the Pre-Disaster Mitigation Plan in the amount of \$25,250. The contract funding has been secured through a FEMA grant. The contract period is through June 30, 2017. The current plan will be reviewed by staff, agencies and the public with comments or suggestions to be sent to Tetra Tech for consideration.

Commissioner Geise asked Mr. Spengler what changes may have occurred in the last 5 years.

Paul Spengler stated there have been changes to the 100-year floodplain in the valley in the past 5 years.

No public comment was received.

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

Proposed Modifications to Amended Plat of Lots 30, 32, 36, 41, and 60 - Broadwater Estates Subdivision. (tabled 8/23/16) (Applicant: Jason Crawford) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented the proposed modifications to Lots 30 and 60 of the preliminarily approved Amended Plat of Lots 30, 32, 36, 41, and 60 – Broadwater Estates Subdivision. She addressed the options before the Commission.

Commissioner Hunthausen reviewed the history of Lots 30 and 60 and who the owner and builders were on each lot.

Commissioner Geise addressed the various violations that have occurred and asked for an update on any outstanding violations.

Lindsay Morgan stated the violations that have occurred in lots 32, 36 and 41 have been mitigated. Lots 30 and 60 are the remaining violations that are pending Commission action for mitigation.

Commissioner Geise clarified the issue with Lot 30 and noted she believes that timing was the issue as they built prior to receiving final approval.

Lindsay Morgan stated that is correct. She noted there was a disturbance to the drainage easement with the placement of boulders.

Commissioner Geise asked Ms. Morgan how many hours she has spent on this project.

Lindsay Morgan stated she has added the hours of all staff time which was around 70 hours. She noted the estimate includes Commission meetings, site inspections, onsite meeting, compiling staff reports, letters and phone calls.

Commissioner Geise asked how much the applicant has paid throughout the process.

Lindsay Morgan stated the applicant paid \$400 for a modification request application.

Commissioner Murray stated he has a concern for Lot 30 in the event the home is sold down the road and the liability that the County will take on knowing the home was built in a drainage easement. He suggested adding a condition of approval that an engineer must certify that the location of the home within the drainage easement will not subject them to damage during storm events.

Commissioner Hunthausen stated the drainage plan provides an alternative plan and noted that approval from DEQ is still needed.

Lindsay Morgan stated that the drainage has been diverted on Lot 30 around the home and connects to the portion of the drainage that remains. Approval from DEQ will still be needed. She further noted that DEQ has approved the plan.

Commissioner Hunthausen asked if the approval of the drainage plan must come from DEQ.

K. Paul Stahl, Deputy County Attorney, stated that this is a DEQ approval. He noted that the Commission should rely on their approval as they have the final say. He reiterated that this approval has been made by DEQ.

Commissioner Geise asked what happens if the drainage on Lot 30 was filled in or disturbed in the future.

Lindsay Morgan stated we cannot require the drainage to remain.

Commissioner Hunthausen noted that the Commission has already eliminated the drainage on Lot 30 and the home owner added the additional drainage on their own.

Lindsay Morgan noted that there is a ditch that runs along Smallwood Court and into a drainage at the cul-de-sac.

Commissioner Hunthausen noted that Lot 30 is requesting to remove an additional section of the drainage easement. He clarified that the request for Lot 60 is to amend the drainage easement to allow for the encroachment of the eave.

Commissioner Geise noted her frustration with the violations that have occurred on all five lots in the subdivision. She noted the staff time and tax payer money that has gone into fixing the errors from builders and developers.

Commissioner Murray stated he agrees with Commissioner Geise and noted he will support the request to allow the project to move forward.

PUBLIC COMMENT-

Joe Nistler, 4996 Smallwood, stated he does not feel he rushed the gun on this home and reviewed the building history of Lot 60 and 41. Approval of the preliminary plat was approved last November and the proposed drainage was staked out. He noted that he felt he was in compliance with the project.

Commissioner Hunthausen asked Mr. Nistler if he is denying the fact that they are in violation.

Joe Nistler stated he is in violation.

Commissioner Hunthausen reviewed the timeline of violations with the lots.

Joe Nistler stated he moved forward with the assumption that the preliminary plat will be approved. Commissioner Hunthausen noted his appreciation for the homes Mr. Nistler has built in the community but reiterated that being a good builder does not allow you to violate the rules.

Commissioner Geise asked Mr. Nistler if he relied on the engineering firms and the surveyors to stake the property.

Joe Nistler stated he did rely on the surveyors and noted the timeline and number of surveys that they had done.

The public comment period is now closed.

A motion was made by Commissioner Hunthausen to approve the amended Subdivision plat to remove a portion of the drainage easement on Lot 30. The motion was seconded by Commissioner Geise.

Commissioner Geise reviewed the findings of fact for the modification to the preliminarily approved amended subdivision plat to remove a portion of the drainage easement on Lot 30. She noted the structure was built ahead of time and that the drainage would be eliminated upon final plat. She further noted written comments received, public testimony received and that the approval of DEQ will be required.

A motion was made by Commissioner Geise to adopt the findings of fact as presented. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise to adopt the conclusion of law that that the proposed modification to the amended Subdivision plat for Lot 30 of the Amended Plat of Lots 30, 32, 36, 41, and 60 – Broadwater Estates Subdivision should have no impacts to agriculture, agricultural water user facilities, local services, wildlife, and wildlife habitat and that the proposed modification to the amended Subdivision plat for Lot 30 of the Amended Plat of Lots 30, 32, 36, 41, and 60 – Broadwater Estates Subdivision will have impacts to the natural environment and public health and safety; however, these impacts can be mitigated through the conditions of approval already placed on the Amended Plat of Lots 30, 32, 36, 41, and 60 – Broadwater Estates Subdivision. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

The motion on the table to approve the amended Subdivision plat to remove a portion of the drainage easement on Lot 30 Passed on a 3-0 vote.

A motion was made by Commissioner Hunthausen to approve the amended Subdivision plat to adjust the drainage easement on Lot 60. The motion was seconded by Commissioner Murray.

Commissioner Hunthausen reviewed the findings of fact for the modification to the preliminarily approved amended subdivision plat to adjust the drainage easement on Lot 60. He noted the encroachment into the drainage easement, the culverts installed to divert stormwater drainage and noted written comments received along with public testimony.

A motion was made by Commissioner Geise to add a finding of fact from the testimony of the builder that the pins had been placed prior to the construction. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Hunthausen to approve the findings of fact as modified. The motion was seconded by Commissioner Geise. The motion Passed on a 2-1 with Commissioner Geise voting against.

A motion was made by Commissioner Hunthausen to adopt the conclusion of law that the proposed modification to the amended Subdivision plat for Lot 60 of the Amended Plat of Lots 30, 32, 36, 41, and 60 – Broadwater Estates Subdivision should have no impacts to agriculture, agricultural water user facilities, local services, wildlife, and wildlife habitat and that the proposed modification to the amended Subdivision plat for Lot 60 of the Amended Plat of Lots 30, 32, 36, 41, and 60 – Broadwater Estates Subdivision will have impacts to the natural environment and public health and safety; however, these impacts can be mitigated through the conditions of approval already placed on the Amended Plat of Lots 30, 32, 36, 41, and 60 – Broadwater Estates Subdivision. The motion was seconded by Commissioner Geise. The motion Passed on a 2-1 vote with Commissioner Geise voting against.

The motion on the table to approve the amended Subdivision plat to remove a portion of the drainage easement on Lot 60 Passed on a 2-1 vote with Commissioner Geise voting against.

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 10:26 am.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Michael Murray, Chairman


Susan Good Geise, Vice Chair


Andy Hunthausen, Member

ATTEST:



Paulette DeHart, Clerk of the Board