



PUBLIC MEETING

August 28, 2018
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, August 28, 2018, at 9:00 AM in Commission Chambers Room 330.

Roll Call

Chairman Andy Hunthausen called the meeting to order at 9 a.m.

Commissioner Jim McCormick and Commissioner Susan Good Geise were present. Others attending all or a portion of the meeting included Roger Baltz, Bob Drake, Peter Italiano, Christian Lehnert, Greg McNally, Lindsay Morgan, Joe Nistler, Mike Stevenson, Jason Crawford and Nadine McCarty, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

There were no consent action items.

Modification of Agreement Between Lewis and Clark County and USDA Forest Service, Helena-Lewis and Clark National Forest. (Christian Lehnert)

Christian Lehnert, Weed District Coordinator, presented the modification to the participating agreement with USDA Forest Service, Helena-Lewis and Clark National Forest for the Capital 360 Cooperative Landscape Weed Management project. The purpose of Capital 360 is to meet three goals of the National Cohesive Wildland Fire Management Strategy: resilient landscapes; fire adapted communities; and safe and effective wildfire response. Noxious weed management is outlined as one of the objectives within the Capital 360 planning area, a jurisdictional mix of private, city, county, state and federal lands.

The purpose of the modification is to add \$12,850 in additional funding to continue weed treatments as outlined in the original award. As part of this agreement and the Capital 360 project area, the County treats roads that lead to U.S. Forest Service land and/or are within the Forest Service boundary. And also to update Principal Contacts, Provision III.A. to replace the previous County Program Contact with Christian Lehnert Recipient/Cooperator.

The total amount of the modification is \$12,850 with an in-kind match of \$15,440 for a total of \$28,290 bringing the total five-year project cost to \$172,783 and the county match of \$82,840. Staff recommends approval of the modification with the USDA Forest Service.

Commissioner McCormick asked about the Rimini Road project and Mr. Lehnert stated the project has been sprayed by the Weed District in the amount of \$2,000 and not contracted out.

Mr. Lehnert stated he went out to Rimini Road regarding the revegetation with the Forest Service experts. The Forest Service is putting desirable plants in the ditch. It will take 3 to 5 years to see the results due to the weather and environment. The Forest Service will follow up on the project.

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 3-0 vote.

Agreement Between Lewis and Clark County and USDA Forest Service, Helena-Lewis and Clark National Forest. (Christian Lehnert)

Christian Lehnert, Weed District Coordinator, stated that agreement between Lewis and Clark County and the USDA Forest Service is no longer going to go through. Forest Service representative has pulled this agreement and the money will carry over to next year. This will allow time to make changes.

Commissioner Hunthausen noted because the agreement has been pulled no action needed.

No public comment was received.

Resolution 2018-76 Levying and Assessing a Tax Upon Benefited Property with the Kamp Road Rural Improvement District No. 2017-11 (Planner: Greg McNally)

Greg McNally, Planner III, presented the resolution to levy and assess a special assessment of \$354.38 upon benefited properties within the Kamp Road Rural Improvement District (RID) for maintenance of the road and stormwater improvements within the Kamp A-1 and B-1 Subdivisions per benefited property. All property owners within the Kamp Road RID were notified of the public hearing and as of August 17, 2018, no written comments had been received. Staff recommends approval of the resolution.

Mr. McNally noted the lots have been created in final plat with no construction at this time.

No public comment was received.

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

Resolution 2018-77 Levying and Assessing a Tax Upon Benefited Property within the Kamp Fire Rural Improvement District No. 2017-12. (Planner: Greg McNally)

Greg McNally, Planner III, presented the resolution to levy and assess a special assessment of \$66.82 upon benefited properties within the Kamp Fire Rural Improvement District (RID) for maintenance of the fire protection system that was installed within the Kamp A-1 Subdivision per benefited property. All property owners within the Kamp Fire RID were notified of the public hearing and as of August 17, 2018, no written comments 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 Good Geise. The motion Passed on a 3-0 vote.

Resolution 2018-78 Levying and Assessing a Tax Upon Benefited Property within the Tilly Court Rural Improvement District No. 2011-2. (Planner: Greg McNally)

Greg McNally, Planner III, presented the resolution to levy and assess a special assessment of \$83.63 upon benefited properties within the Tilly Court Road Rural Improvement District (RID) for maintenance of the road and stormwater improvements with the Amended Plat of Lot 5 Tillerson Minor Subdivision per benefited property. All property owners within the Tilly Court RID were notified of the public hearing and as of August 17, 2018, no written comments had been received. Staff recommends approval of the resolution.

Mr. McNally stated there is likely one culvert that would have been a standard culvert at the time of construction.

No public comment was received.

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

Amended Plat of Lot 60 of the Amended Plat of Lots 30, 32, 36, 41, and 60 - Corrected Plat of Broadwater Estates Subdivision. (Tabled 8-21-18) (Applicants: Joe and Stacy Nistler) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner III, presented the Amended Plat and associated Variance within the Broadwater Estates Subdivision that was tabled on August 21, 2018. During the meeting the Commission requested of staff additional findings to address the self-imposed financial hardships. Two memos provided first for the project as a whole and the second for the variance request itself.

Ms. Morgan gave an extensive overview on the overall project findings of fact to include twenty-seven different findings of fact and conclusions of law with findings 13, 14, and 15 included in the original presentation.

Commissioner Good Geise asked why is it a 60 foot requirement and Ms. Morgan stated the width is needed to accommodate the 24 foot wide road with the specific slopes and room to install utilities within the easement. There has not been anything less than 60 feet since the adoption of the 2005 subdivision regulations.

Commissioner McCormick asked if taking 20 feet out of the easement will affect utilities that may be installed in the future. Ms. Morgan noted NorthWestern Energy comments stated they would possibly have to install further utilities in the existing road.

Commissioner Good Geise asked for an update on the encroachment agreement for the septic tank and retaining wall which was denied in 2016 by County Public Works and the Commission upheld that denial. The second denial was also upheld by the Commission with another extension and they are currently four months away from the remedy regarding the eaves, the septic and the wall. Ms. Morgan stated she is not aware of any changes that have been made on the property.

Commissioner Hunthausen stated in 2016 there had been multiple amendments approved regarding the drainage easement for the entire subdivision to accommodate construction that had already taken place.

Commissioner McCormick asked if sidewalks and driveways are typically placed within the easements. The private walkway up to the house is an encroachment in the public easement. The driveway has an approach permit.

Commissioner Good Geise referenced findings 16 and 17 and that within the Applicant's variance stated financial hardship to remove the septic and retaining wall. It also references the rocky sub straight and topography limits the space available to the septic system. The topography and sub straight always existed and it was the Applicant's choice to continue.

Nicho Hash, Deputy County Attorney, stated it is correct that financial hardship or self-imposed hardship cannot be considered.

Commissioner McCormick referenced finding 19 and asked who is financially responsible for the digging up of the improved road. At this time it is not known who would be financially responsible.

After review of the findings of fact and conclusions of law on the overall project a motion was made by Commissioner McCormick and seconded by Commissioner Good Geise. The motion Passed on a 3-0 vote.

Ms. Morgan gave an extensive overview of the optional amendments to the draft findings of fact variance request from Chapter XI.F.4 of the 2016 Lewis and Clark County Subdivision Regulations for the proposed Amended Plat of Lot 60 of which a total of 22 findings of fact. There is a recommendation to add to finding no. 17 and data is provide if the existing retaining wall is to consistent with the state of the practice with roadside safety.

A motion was made by Commissioner Good Geise to amend finding No. 17 and accept the 22 findings of fact and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Good Geise to move the record forward from August 21, 2018 and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

PUBLIC COMMENT

Jason Crawford, Triple Tree Engineering, stated he did check the ASHTO requirements and they are in compliance with said requirements and there is no traffic safety concerns with the existing placement of the encroachments.

Commissioner Good Geise stated with all the extensive effort by numerous staff, and other agencies involved to accommodate this request. It is \$150 on the Applicant's part and thousands of dollars on the county side.

A motion was made by Commissioner Good Geise to deny the proposed amended Plat of Lot 60 of the Amended plat of lots 30, 32, 36, 41 and 60 of Broadwater Estates Subdivision and seconded by Commissioner McCormick.

A motion was made by Commissioner Good Geise to approve the findings of fact and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Good Geise based on the findings of fact, the conclusions of law that the amended plat not be agreed to, incurred in and adopted and the amended plat be denied based on the findings of fact and seconded by Commissioner McCormick

Commissioner Hunthausen stated there is an overall motion on the table to deny the amendment and that the motion includes the established findings of fact and conclusions of law. The motion Passed on a 3-0 vote.

Commissioner Good Geise asked due to the denial of the amended plat does that render the variance discussion moot. Mr. Hash feels it would be appropriate to discuss the variance.

A motion was made by Commissioner Good Geise to deny the variance request and seconded by Commissioner McCormick.

A motion was made by Commissioner Good Geise to accept the findings of fact and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Good Geise to adopt the conclusions of law that the variance does not comply with all four criteria to grant a variance, therefore to deny the variance and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

Commissioner Hunthausen stated there is a motion on the floor to deny the variance request based on the findings of fact and the adopted conclusions of law. The motion Passed on a 3-0 vote.

Wildfire Outlook Briefing. (Bob Drake)

Roger Baltz, Chief Administrative Officer, stated that Bob Drake, Fire Chief of the Tri-Lakes Fire Department would not be in attendance to give a briefing on the wildfire outlook due to the change in the weather.

Commissioner Good Geise noted that new information came in that the fire conference calls will no longer be scheduled unless fire conditions change.

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

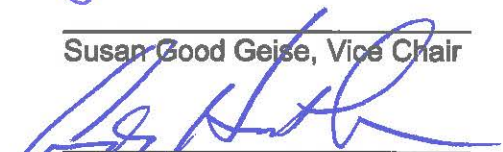
Adjourn

There being no further business, the meeting adjourned at 10:52 am.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Jim McCormick, Chair

Susan Good Geise, Vice Chair


Andy Hunthausen, Member

ATTEST:



Paulette DeHart, Clerk of the Board

