



PUBLIC MEETING
September 17, 2015
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, September 17, 2015, at 9:00 AM in Commission Chambers Room 330.

Roll Call

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

Commissioner Susan Good Geise and Commissioner Mike Murray were present. Others attending all or a portion of the meeting included Eric Bryson, Michele Peterson-Cook, K. Paul Stahl, Kevin Hamilton, Misty Edwards, Art Pembroke, Jennifer McBroom, Jim Wilbur, Greg McNally, Tony Prothero, Cherche Prizeaut, John Umsted and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

There are no consent action items.

Resolution 2015-133 Levying an Assessment Upon Customers of the Lincoln Solid Waste Management District Who Own Personal Property in the District and Owe an Unpaid Overage Charge for Fiscal Year 2015. (Misty Edwards)

Misty Edwards, Lincoln Solid Waste Management District Secretary, presented resolution 2015-133 levying an assessment upon customers of the Lincoln Solid Waste Management District (LSWD) who own personal property in the district and owe an unpaid overage charge for fiscal year 2015. Residences in the Lincoln Solid Waste District that generated more than the 12 yard limit for the period from July 1, 2014 to June 30, 2015 was billed \$10 per yard for each yard exceeding the 12 yard limit. The Board of Directors for the Lincoln Solid Waste District directed staff to bill and collect payments on the Modified Pay-As-You-Throw Program (MPAYT) through September 1, 2015. Residents were notified by mail a statement displaying the amount they owed and instructions that if a payment was not received by September 1, 2015 the MPAYT charges would be added to their tax bill. The resolution before the Commission would allow for the annual assessment to be levied and assessed on the 2015 tax bills for those LSWD residences that have a balance.

No public comment was received.

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

Resolution 2015-134 Levying an Assessment Upon Customers of the Lincoln Solid Waste Management District Who Own Real Property in the District and Owe an Unpaid Overage Charge for Fiscal Year 2015. (Misty Edwards)

Misty Edwards, Lincoln Solid Waste Management District Secretary, presented resolution 2015-134 levying an assessment upon customers of the Lincoln Solid Waste Management District who own real

property in the district and owe an unpaid overage charge for fiscal year 2015. Residences in the Lincoln Solid Waste District that generated more than the 12 yard limit for the period from July 1, 2014 to June 30, 2015 were billed \$10 per yard for each yard exceeding the 12 yard limit. The Board of Directors for the Lincoln Solid Waste District directed staff to bill and collect payments on the Modified Pay-As-You-Throw Program (MPAYT) through September 1, 2015. Residents were notified by mail a statement displaying the amount they owed and instructions that if a payment was not received by September 1, 2015 the MPAYT charges would be added to their tax bill. The resolution before the Commission would allow for the annual assessment to be levied and assessed on the 2015 tax bills for those LSWD residences that have a balance.

No public comment was received.

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

Resolution 2015-136 Amending Resolution No. 2012-11 Authorizing Approval of the Following Loan From the Capital Development Fund to the Fairgrounds Fund of Lewis and Clark County. (Nancy Everson)

Eric Bryson presented resolution 2015-136, amending resolution 2012-11 authorizing approval of the following loan from the capital development fund to the fairgrounds fund of Lewis and Clark County. The intent of the resolution is to revise the agreement between the fairgrounds and the capital development fund as the fairgrounds wishes to defer payments on the loan balance remaining of \$139,000 until FY2019 in order to upgrade equipment and complete necessary projects at the fairgrounds. The purpose of the loan is to finance the purchase of portable bleachers for events held at the Lewis and Clark County fairgrounds as well as replacement of chutes and gates that are in need of replacement due to safety concerns.

No public comment was received.

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

Resolution 2015-137 Ordering the Cancellation of Delinquent Property Taxes on Mobile Home or House trailer. (Eric Bryson)

Eric Bryson, presented resolution 2015-137 ordering the cancellation of delinquent property taxes on mobile home or house trailer. The Commission can order the cancellation of delinquent property taxes on a mobile home. The mobile home is to be moved for purposes of destruction or recycling. The request is in the amount of \$24.25.

No public comment was received.

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

Resolution 2015-138 Ordering the Cancellation of Delinquent Property Taxes on Mobile Home or House trailer. (Eric Bryson)

Eric Bryson, presented resolution 2015-138 ordering the cancellation of delinquent property taxes on mobile home or house trailer. The Commission can order the cancellation of delinquent property taxes on a mobile home. The mobile home is to be moved for purposes of destruction or recycling. The request is in the amount of \$885.27.

No public comment was received.

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

Lease Agreement Between Lewis and Clark County and Dell Financial Services. (Art Pembroke)

Art Pembroke, IT&S Director, presented the lease agreement between Lewis and Clark County and Dell Financial Services for the replacement of products that are related to the current imaging, patch and asset/inventory products in the amount of \$47,881.08.

No public comment was received.

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

Grant Application for the Lake Helena WRP Implementation Project. (Jennifer McBroom)

Jennifer McBroom, WQPD Outreach Coordinator, presented the grant application for the Montana Department of Environmental Quality's 319 Non point Source Program for the Lake Helena WRP Implementation Project in the amount of \$93,611. The proposed contract period begins July 1, 2016 through June 30, 2019. The grant will include a restoration project that is located on the lower Prickly Pear Creek that covers approximately 2,100 linear feet. Phase 1 of the project will include site design, landowner agreements, obtainment of permits and materials and an engineered study. The grant will be awarded early spring or summer of 2016.

No public comment was received.

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

The Amended Plat of Lots 9A, 11A, and 101A of the Amended Plat of Bridge Creek Estates Subdivision. (tabled 9/8/15) (Applicant: Phil Wirth) (Planner: Greg McNally)

Greg McNally, Planner II, presented the proposed 50 lot subdivision to be developed in five phases, located east of and adjacent to North Montana Avenue and approximately 1/4 mile north of Lincoln Road. The Planning Board held a hearing on August 18, 2015 and recommended approval of the subdivision with conditions as provided by staff and provided two additional findings of fact in regards to impacts on local service and two conditions of approval to Phase 2E. There were two questions from the hearing on September 8, 2015 that were not answered and Mr. McNally clarified whether or not the covenants were discussed during a public meeting held by the Commission previously. It does not appear that any discussion was held in public meetings in 2008 in regards to the covenants. He noted that a copy of the covenants was submitted with the application. The next question was in regards to whether or not there were any separation requirements in the AASHTO standards for the spacing of the proposed crosswalk and it was noted that there are no standards on spacing of crosswalks. He further noted that the safety of the pedestrians is evaluated in the speed limit study in this specific area.

Commissioner Hunthausen stated that the Commission has reviewed the staff report, the presentations by staff and the applicant, and the draft findings of fact and conclusions of law and approval conditions and asked if anyone prepared to make a motion to approve, conditionally approve, or deny the request for subdivision approval.

A motion was made by Commissioner Geise that after reviewing the staff report, the presentations by staff and the applicant, and the draft findings of fact and conclusions of law and approval conditions, and after considering public testimony at the Planning Board hearing, the Planning Board recommendation, and the public comment at our meeting, to approve the subdivision request with conditions of approval needed to mitigate adverse impacts or bring the project into compliance with regulations. The motion was seconded by Commissioner Murray.

Commissioner Hunthausen stated the Commission must now review the draft findings of fact for each of the subdivision review criteria to determine whether they accurately reflect the information we have reviewed and the public testimony we have heard, starting with the potential impacts of the proposed subdivision on agriculture. We must also make conclusions on whether there will be adverse impacts and whether those impacts can be mitigated. He asked if anyone is prepared to make a motion on the draft findings and conclusions for agriculture.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Agricultural Lands and Agricultural Operations. Those draft findings touch on the following information: the three soil mapping units on the property, the location of Mussellshell-Crago complex on the project site and its identification as Farmland of Local Importance, the location of Thess-Scravo complex on Lot 101A of the project site, the location of Scravo Gravelly loam in the southwest portion on current Lot 101A of the project site, the location of the Helena Valley Irrigation District (HVID) canal and easement on the northern portion of the project site, the need to fence the HVID easement for public safety and protection of HVID facilities, the need for setback and buffer zones for irrigation ditches and canals, the wheel-line irrigated southern portion of current Lot 101A, the Contract and Encroachment Agreement for an irrigation pivot on County Parkland, the purpose of irrigated alfalfa is an economical way to control weeds and to maintain an aesthetically pleasing appearance. Staff has identified adverse impacts on agriculture or agricultural operations that can be mitigated through conditions of approval.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on Agricultural Lands and Agricultural Operations and after considering testimony, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on Agricultural Lands and Agricultural Operations but they can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Local Services – Wastewater and Water. Those draft findings touch on the following information in regards to wastewater and water: the proposed means of wastewater disposal, the existing public wastewater system currently serves 88 lots, the applicant has a Subdivision Waiver from DEQ for some requirements, the type of wastewater treatment system for the Bridge Creek Estates Subdivision, the additional lots will use the existing public water, the subdivision's public water system has two distinct and separate systems, the existing public water system has water rights and capacity for the proposal, water mains and service lines extended to each development phase prior to final platting, the proposed Subdivision is subject to approval of DEQ, the existing storm water drainage plan will be amended, the existing storm water collection and drainage systems for subdivision in accordance with DEQ regulations. In regards to Solid Waste, the property is within the Scratchgravel Solid Waste District. In regards to Mail Delivery: an existing mailbox bank is proposed for the subdivision, prior to final plat approved mailbox installation is required and in regards to Utilities: Northwestern Energy provides electrical power and natural gas to the subdivision, Northwestern Energy requests service easements on the front lot corners, Century Link provides telephone service to the current subdivision. In regards to Road and Traffic, five new roads will be constructed as part of the construction of Phases 2A, 2B, 2C, 2D and 2E and Resistol Drive and Hackamore Drive will be extended, an easement providing access for Lot 3 of Wirth Brown Minor is proposed to be abandoned when the hammerhead-T is created for Phase 2A, a Rural Improvement District (RID) for road maintenance will be created for the subdivision, the Traffic Impact Study estimates approximately 469 Annual Average Daily Trips for proposed subdivision, the proposed subdivision will have little impact on the surrounding road system and most intersections will function at acceptable levels of service, no additional turning lanes or modified traffic controls are warranted, the applicant shall pay a proportionate share of the costs for improving all roads within the proposed subdivision's traffic impact corridor which includes roads within the subdivision and North Montana Avenue, from Ropers Road to Lincoln Road, for the North Montana Avenue, Ropers Road to Lucchese Road segment, the percentage of impact attributable to the applicant will be 4.23%, for North Montana Avenue, Lucchese Road to Lincoln Road segment, the percentage of impact attributable to the applicant will be 4.36%, no distribution analysis or analysis of the percentage of impact on Lucchese Road, Ropers Road, Hackamore Drive, Resistol Drive, or Stetson Road, the applicant pays the percentage of impact to impacted roads with the traffic impact corridor commensurate with each phase, the applicant shall supply road names and road identification signs. In regards to Schools, students would attend Jim Darcy Elementary, C.R. Anderson, and Capital High School, there will be an additional 50 primary school and 25 secondary students residing within the proposed subdivision at full build-out, no comments have been provided by School District No. 1. In regards to Emergency Services, St. Peter's

Hospital and Ambulance Service is 11 road miles from the proposed subdivision, the Sheriff's Department is 10.5 road miles from the proposed subdivision, the proposed subdivision served by the West Helena Valley Volunteer Fire District, West Helena Valley Fire Station No. 2 is one-half mile north of the subdivision, the Bridge Creek Estates Subdivision's fire protection water supply well meets the County Subdivision Regulations. In regards to Parks, the applicant proposes cash in-lieu donation in place of park land dedication, the original Bridge Creek Estates subdivision plat included 101 lots for residential development and one 5.52 acre lot of parkland, two existing Contract and Encroachment Agreements for use of an irrigation pivot and a water control building are on County Parkland, the Amended Plat of Bridge Creek reduced the total number of lots to 88 and dedicated an easement on the County Parkland, the market analysis estimate of a value of \$6,000.00 per acre, the applicant's calculations require 6.34 acres of parkland dedication, or 0.82 of an acre of additional parkland or its cash in-lieu equivalent, the applicant proposes a cash payment in-lieu of 0.82 acres of parkland, however staff determined 2.32 acres of parkland is needed or cash in-lieu, the applicant proposes to do improvements, rather than actual cash payment, parkland requirements are commensurate with the phasing plan of subdivision, City-County Parks Board recommended to accept cash in-lieu of parkland dedication, staff has identified adverse impacts on local services that can be mitigated through conditions of approval, the applicant has an existing SIA guaranteeing the construction of a non-motorized trail and a non-motorized trail easement within the proposed Phase 2E. Public comment was received on impacts of local services and was noted that residents are concerned about the allocation of water and the water rights for future development, the Homeowners Association and the Bridge Creek Water and Sewer District Board would like control of the water distribution system, but the developer wants to retain the water rights and possession of the wells, residents are concerned of potential for cross-contamination of the domestic and irrigation water systems, residents want to know why lots in Powder River Court use the domestic water line but the irrigation water line was not extended to their properties and the public water system has had pressure issues that caused damage to homes in the subdivision by written and public testimony.

A motion was made by Commissioner Geise to add a finding of fact to recognize that the applicant cannot receive credit for previously dedicated parkland in the proposed subdivision and seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on mitigation of impacts on local services, and after considering public testimony, to approve the finding on mitigation of impacts as amended. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on Local Services but can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Break/Reconvene.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Impacts on the Natural Environment. Those draft findings touch on the following information: wells in area have average depths of approximately 106 feet, wells in area have an average static water level of approximately 29.5 feet, wells in area have an average yield of approximately 152 gpm, the nearest surface water is a Helena Valley Irrigation canal that runs through the north of the subdivision, the property is located in the Lewis and Clark Air Quality Protection District, the two soil mapping units identified on the property are easily eroded, a Montana Pollution Discharge Elimination System permit may be required, a five year Weed Management Plan is required and staff has identified adverse impacts on the natural environment that can be mitigated through conditions of approval.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on the Natural Environment, and after considering public testimony, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on the Natural Environment but can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Impacts on Wildlife. Those draft findings touch on the following information: due to the level of existing development present in area, wildlife is not common, the Montana Natural Heritage Program identified seven species of concern for this area, planning staff identified a black-tailed prairie dog colony on site, the Black-tailed Prairie Dog is a Species of Concern but is also a "nuisance" species and staff has identified adverse impacts on wildlife that that can be mitigated through conditions of approval.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Impacts on Wildlife Habitat. Those draft findings touch on the following information: due to the level of existing development present in area, wildlife is not common, the Montana Natural Heritage Program identified a plant species known as wedge leaved salt bush of concern in the area, development of subdivision will displace a black-tailed prairie dog colony, the Black-tailed Prairie Dog is not a protected species, the Black-tailed Prairie Dog colony would be susceptible to predation as development began, conservation organizations can trap and relocate prairie dogs, the applicant could limit construction in the area of the colony until June 1st of every year and staff has identified adverse impacts on wildlife habitat that that can be mitigated through conditions of approval.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on the Wildlife and Wildlife Habitat, and after considering public testimony, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on Wildlife and Wildlife Habitat but can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Impacts on Public Health and Safety. Those draft findings touch on the following information: the fencing of irrigation district easement would mitigate the risks of drowning, proper management of the public wastewater system mitigates risk of groundwater contamination, proposed subdivision is in a Zone 1 Radon Zone, earthquake faults are located 1.5 miles north of the subdivision, the subdivision is located in an area of moderate liquefaction susceptibility, the subdivision has a low fuel hazard rating, but requires a vegetation management plan, a storm water drainage plan is required, staff has identified adverse impacts on public health and safety that that can be mitigated through conditions of approval. Public comment received on the impacts on public health and safety included that a resident questioned how having the fire protection water source across the irrigation canal benefits the subdivision south of the irrigation canal and residents expressed a desire for a non-motorized path and crosswalks to make it safer for children to get to and from Jim Darcy School.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on the Public Health and Safety, and after considering public testimony, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on Public Health and Safety but can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Impacts on Cultural Resources. Those draft findings touch on the following information: no historical or cultural resources identified on the property, the potential for cultural resources is low and staff has identified no adverse impacts on cultural resources.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on the Cultural Resources, and after considering public testimony, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony, to adopt a conclusion of law that the proposed subdivision will not have adverse impacts on Cultural Resources.

The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote. Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on compliance with the Subdivision Regulations. Those draft findings touch on the following information: the proposed subdivision does not comply with all of the County Subdivision Regulations and the applicant proposes to develop the property in five phases. The public wastewater and water facilities have capacity for all five phases. Internal roads will be constructed and utilities are adjacent and available for all five phases.

Commissioner Geise stated that she has reviewed the draft findings of fact for compliance with Survey Requirements. Those draft findings touch on the following information: the proposal does not comply with all of the survey requirements and survey requirements will be met with conditions of approval.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Compliance with Subdivision Regulations and Survey Requirements, and after considering public testimony, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony, to adopt a conclusion of law that the proposed subdivision will not be in Compliance with Subdivision Regulations and Survey Requirements but can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact on Adequate Provision of Utilities. Those draft findings touch on the following information: essential utilities are adjacent and available to the proposed phases, Northwestern Energy requests service easements on the front corner of lots as needed, all required utility easements shall be shown on the plat and staff has identified utility requirements that can be met with conditions of approval. Commissioner Geise stressed the importance of utility easements being shown on the plat to ensure that building is not occurring in the easements.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Adequate Provision of Utilities, and after considering public testimony, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony, to adopt a conclusion of law that the proposed subdivision will not have adequate Provision of Utilities but can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for Provision of Adequate Access. Those draft findings touch on the following information: the proposed subdivision will use existing subdivision roads to access North Montana Avenue, one hammerhead-T will serve each of the Phases 2A, 2B, 2C, and 2D. For Phase 2E, extensions of Resistol and Hackamore Drives and a local road linking the two roads will be constructed, the proposed internal access roads will be built to Typical Section No. 2 and staff has identified requirements for access that can be met with conditions of approval.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Adequate Provision of Access, and after considering public testimony, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony, to adopt a conclusion of law that the proposed subdivision will not have adequate Provision of Access but can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Commissioner Geise stated that she has reviewed the draft findings of fact for Compliance with Zoning and Other Regulations. Those draft findings touch on the following information: the property is not located in a zoning district, covenants do not allow further subdivision of lots within the Bridge Creek Estates Subdivision, the applicant must amend the existing covenants to permit further subdivision of lots prior to final platting, staff has identified potential zoning and other regulation requirements that can be met through conditions of approval.

A motion was made by Commissioner Geise to amend finding of fact number three that the applicant must amend the existing covenants to permit further subdivision of lots prior to any construction. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Compliance with Zoning and Other Regulations, and after considering public testimony, to approve the findings as submitted as amended. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony, to adopt a conclusion of law that the proposed subdivision will not be in Compliance with Zoning and Other Regulations but can be mitigated through conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Commissioner Hunthausen stated that the Commission has adopted findings of fact and conclusions of law for the proposed subdivision. He asked if anyone is prepared to act on them. Commissioner Geise stated that she has reviewed the draft conditions of approval that are intended to mitigate adverse impacts of the subdivision, to ensure compliance with subdivision regulations and other requirements and regulations, and to provide adequate utilities and access.

A motion was made by Commissioner Geise to change in the conditions of approval anywhere it reads prior to final plat and insert prior to construction, including amending the covenants prior to construction and seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Commissioner Geise continued with the draft approval conditions are as follows for Phase 2A to demonstrate compliance with existing covenants, petition and complete process to establish and abandon the "60-foot access easement to Lot 1 Brown Wirth Minor", DEQ & County Health review and approval of the wastewater and water systems, DEQ & County Planning review and approval of storm drainage systems, approval of a weed management plan, DEQ review and approval of an erosion control plan, preparation, compliance, and recording of a vegetative management plan, an approach permit from County Public Works for access onto Ropers Road, Public Works and Planning approval of road plans and construction of internal access roads and utilities, determination and Payment of a percentage of impact to off-site roads within the traffic impact corridor, payment of a percentage of impact to North Montana Avenue, approval of a water source for fire protection, installation of mailboxes meeting Postal Service requirements, payment of cash in-lieu of parkland dedication, amendment of an RID to for maintenance of internal access roads, creation of an RID for fire protection, stormwater improvements, and public areas, installation of a fence along the HVID easement, approval of all road names by the Address Coordinator, Public Works and Planning approval of road signage and installation, approval of all lot addresses, preparation of a final plat meeting all survey and regulation requirements, filing of restrictive covenants, mitigation of the impact on the Black-tailed Prairie Dog Colony, installation or financial guarantee of public improvements, proof of title and payment of all taxes and preliminary approval term of 3 years. For Phase 2B: order of platting Phase 2B, DEQ & County Health review and

approval of the wastewater and water systems, DEQ & County Planning review and approval of storm drainage systems, approval of a weed management plan, DEQ review and approval of an erosion control plan, an approach permit from County Public Works for access onto Ropers Road, Public Works and Planning approval of road plans and construction of internal access roads and utilities for Phase 2B, determination and payment of a percentage of impact to off-site roads within the traffic impact corridor, payment of a percentage of impact to North Montana Avenue, installation of mailboxes meeting Postal Service requirements, payment of cash in-lieu of parkland dedication, amending of an RID to for maintenance of internal access roads, create or amend an RID for fire protection, stormwater improvements, and public areas, approval of all road names by the Address Coordinator, Public Works and Planning approval of road signage and installation, approval of all lot addresses, preparation of a final plat meeting all survey and regulation requirements, filing of restrictive covenants, installation or financial guarantee of public improvements, proof of title and payment of all taxes and preliminary approval term of 3 years. For Phase 2C: order of platting Phase 2C, DEQ & County Health review and approval of the wastewater and water systems, DEQ & County Planning review and approval of storm drainage systems, approval of a weed management plan, DEQ review and approval of an erosion control plan, an approach permit from County Public Works for access onto Ropers Road, Public Works and Planning approval of road plans and construction of internal access roads and utilities for Phase 2C, determination and payment of a percentage of impact to off-site roads within the traffic impact corridor, payment of a percentage of impact to North Montana Avenue, installation of mailboxes meeting Postal Service requirements, payment of cash in-lieu of parkland dedication, amending of an RID to for maintenance of internal access roads, create or amend an RID for fire protection, stormwater improvements, and public areas, approval of all road names by the Address Coordinator, Public Works and Planning approval of road signage and installation, approval of all lot addresses, preparation of a final plat meeting all survey and regulation requirements, filing of restrictive covenants, installation or financial guarantee of public improvements, proof of title and payment of all taxes and preliminary approval term of 3 years. For Phase 2D: order of platting Phase 2D, DEQ & County Health review and approval of the wastewater and water systems, DEQ & County Planning review and approval of storm drainage systems, approval of a weed management plan, DEQ review and approval of an erosion control plan, an approach permit from County Public Works for access onto Ropers Road, Public Works and Planning approval of road plans and construction of internal access roads and utilities for Phase 2D, determination and payment of a percentage of impact to off-site roads within the traffic impact corridor, payment of a percentage of impact to North Montana Avenue, installation of mailboxes meeting Postal Service requirements, payment of cash in-lieu of parkland dedication, amended of an RID to for maintenance of internal access roads, create or amend an RID for fire protection, stormwater improvements, and public areas, approval of all road names by the Address Coordinator, Public Works and Planning approval of road signage and installation, approval of all lot addresses, preparation of a final plat meeting all survey and regulation requirements, filing of restrictive covenants, installation or financial guarantee of public improvements, proof of title and payment of all taxes and preliminary approval term of 3 years. For Phase 2E: demonstrate compliance with existing covenants, DEQ & County Health review and approval of the wastewater and water systems, DEQ & County Planning review and approval of storm drainage systems, approval of a weed management plan, DEQ review and approval of an erosion control plan, approach permits from County Public Works for access onto Hackamore Drive and Resistol Drive, Public Works and Planning approval of road plans and construction of internal access roads and utilities for Phase 2E, determination and payment of a percentage of impact to off-site roads within the traffic impact corridor, payment of a percentage of impact to North Montana Avenue, installation of mailboxes meeting Postal Service requirements, payment of cash in-lieu of parkland dedication, amended of an RID to for maintenance of internal access roads, create or amend an RID for fire protection, stormwater improvements, and public areas, approval of a water source for fire protection, preparation, compliance, and recording of a vegetative management plan, approval of all road names by the Address Coordinator, Public Works and Planning approval of road signage and installation, approval of all lot addresses, preparation of a final plat meeting all survey and regulation requirements, filing of restrictive covenants, installation or financial guarantee of public improvements, proof of title and payment of all taxes, preliminary approval term of 3 years and non-motorized trail easement and trail construction.

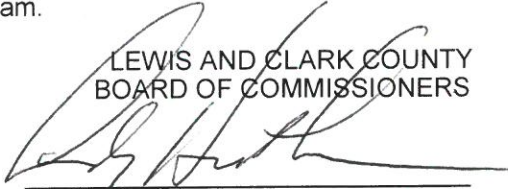
A motion was made by Commissioner Geise that after reviewing the draft conditions of approval for all five project phases, and after considering public testimony, to approve the conditions of approval as amended. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and conclusions of law and the adopted conditions of approval, and after considering public testimony, to recommend approval of the subdivision request subject to the adopted conditions of approval as amended and by Commissioner Murray. The motion Passed on a 3-0 vote.

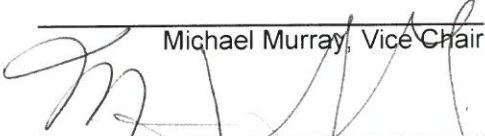
Public comment on any public matter within the jurisdiction of the Commission that is not on the agenda above.

Adjourn

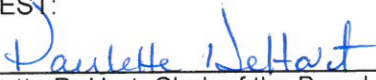
There being no further business, the meeting adjourned at 10:56 am.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Andy Hunthausen, Chairman

Michael Murray, Vice Chair


Susan Good Geise, Member

ATTEST:


Paulette DeHart, Clerk of the Board