



PUBLIC MEETING
September 3, 2015
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, September 3, 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 Mike Murray was present. Commissioner Susan Geise was excused on County business. Others attending all or a portion of the meeting included Eric Bryson, Michele Peterson-Cook, K. Paul Stahl, Katrina Chaney, Nancy Everson, Matt Heimel, Greg McNally, Audra Zacherl, Maria Penna, Larry Hoffman, George Thebarger, Doug Nisbet, Dustin Noel, Damon Van Diest, Benjamin Ballars, Spencer Sucha, Tim Barson, Terri Corrigan, Kraig Pester, Bonnie Gebhardt, Alvin Gebhardt, Jeff Claassen, Ruth Makinster, Ben Quinones, Ron Bartsch, Ryan Casne, and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

- a. Resolution 2015-127 Declaring County Property Surplus Property. (Amy Reeves)

Eric Bryson reported on the consent action item 2a and recommended approval.

No public comment was received.

A motion to Approve was made by Commissioner Murray and seconded by Commissioner Hunthausen. The motion Passed on a 2-0 vote.

Bid Opening - New Motor Graders. (Audra Zacherl)

Audra Zacherl, Finance Coordinator, presented the bid openings for new motor graders. Three bids were received. The first bid was from Tri-State Equipment Inc. of Great Falls, MT and the bid was a no bid. The second bid is from Tractor and Equipment of Great Falls, MT. The bid has been signed, the bid security included and the total value for six new motor graders is \$1,574,135.00 less the used motor grader value of \$1,068,000. The value of the warranty and extended service agreements is \$55,960.00 less any guaranteed savings, none. The total base bid amount is \$562,095. The third bid is from RDO Equipment of Great Falls, MT. The bid has been signed, the bid security included and the total value for six new motor graders is \$1,525,074 less the trade in value states, invoice to buy back. The value of the warranty and extended service is \$61,976.00. The total base bid amount is \$1,587,050.00.

A motion was made by Commissioner Murray to take the bids under advisement and have the staff proceed as presented and take up the item at the regularly scheduled meeting on September 10, 2015 and was seconded by Commissioner Hunthausen. The motion Passed on a 2-0 vote.

Professional Services Contract Between Lewis and Clark County and Stahly Engineering & Associates, Inc.(Audra Zacherl)

Audra Zacherl, Finance Coordinator, presented the contract with Stahly Engineering & Associates, Inc. for engineering services on the Marysville Road Corridor Completion project in the amount of \$376,601.

The contract period is through December 30, 2017. The contract will provide surveying, design, environmental compliance and construction administration for the Western Federal Lands Highway Division Federal Lands Access Program Marysville Road Corridor Completion project. Improvements for this project consist of roadway reconstruction from Ottawa Gulch to the ski hill; paving from Marysville to the ski hill; chip seal from Hwy 279 to the ski hill and new safety signage. Lewis and Clark County signed a reimbursable agreement with Western Federal Lands to reimburse the County \$2,200,001 of the total project costs of \$2,563,688, which includes the cost of engineering. The County's match portion of \$343,687 for this project is budgeted in the Road Infrastructure Fund.

No public comment was received.

A motion to Approve was made by Commissioner Murray and seconded by Commissioner Hunthausen. The motion Passed on a 2-0 vote.

Lewis and Clark County Levies for Schools 2015-2016. (Katrina Chaney)

Katrina Chaney, Superintendent of Schools, presented the levies for schools for 2015-2016. There was savings in the amount of \$573,887 from the previous year in retirement and transportation dollars.

No public comment was received.

A motion to Approve was made by Commissioner Murray and seconded by Commissioner Hunthausen. The motion Passed on a 2-0 vote.

Resolution 2015-126 Providing for the Annual Tax Levy in Mills for the Fiscal Year July 1, 2015 through June 30, 2016. (Nancy Everson)

Nancy Everson, Finance Director, presented resolution 2015-126 providing for the annual tax levy in mills for fiscal year July 1, 2015 through June 30, 2016. It was noted that the maximum authorized tax levy has been levied, except for 2.69 mills for the permissive health levy and 25.38 mills for the Marysville Fire District. The Commission will carry forward the authority to levy these mills in future years. There are four tax levy types for the County, all County property levies, outside Incorporated Cities Levies, Special Assessments and Special Districts. The 2015 tax levy will be \$981.15 for property taxes for a \$100,000 home for example. Within that amount, 53.42 percent of that tax goes to the state and local schools levies, 22.67 percent goes to the City, 17.04 percent goes to the County and 6.88 percent goes to the County voted levies. For fiscal year 2016 the increases are to the newly taxable property in the amount of \$512,633, the inflationary factor in the amount of \$141,870, the permissive medical levy in the amount of \$72,765 and health facilities debt in the amount of \$9,702. The increase is 1.85 mills or \$2.50 per \$100,000 home. There was a decrease in the amount of \$39,400 for Net/gross proceeds.

No public comment was received.

A motion to Approve was made by Commissioner Murray and seconded by Commissioner Hunthausen. The motion Passed on a 2-0 vote.

Resolution 2015-124 Levying An Assessment Upon Customers of the Scratchgravel Solid Waste Management District Owning Mobile Homes as Personal Property In The District and Owing A Pay-As-You-Throw Program Charge After August 14, 2015. (Maria Penna)

Maria Penna, Accounting Technician, presented resolution 2015-124 levying an assessment upon customers of the Scratchgravel Solid Waste Management District owning mobile homes as personal property in the district and owning a pay-as-you-throw program charge after August 14, 2015. Invoices were mailed to permit holders who had exceeded the 1.5 ton limit or 3,000 lbs limit for the period of July 1, 2014 through June 30, 2015. Only those accounts owing \$5.00 or more were invoiced. These charges were due and payable by July 31, 2015. Invoices were also sent to the Lewis and Clark Landfill account holders within the Scratchgravel Solid Waste District and upon discussion and advice of the County Attorney's office, these homeowners were also advised that if their accounts have not been paid by July 31, 2015, the past due charges would be placed on their property tax bills. On October 7, 2002, the Scratchgravel Board directed staff to accept PAYT payments beyond the July 31st deadline. They enacted a two week grace period and directed staff to accept payments through the second Monday in August. Staff has extended this grace period to August 14, 2015 to accommodate those account holders who requested an extension. If approved by the County Commissioners, these charges will be placed on the property owner's November 2015 tax bill.

No public comment was received.

A motion to Approve was made by Commissioner Murray and seconded by Commissioner Hunthausen. The motion Passed on a 2-0 vote.

Resolution 2015-125 Levying an Assessment Upon Customers of the Scratchgravel Solid Waste District Owning Real Property In The District and Owning a Pay-As-You-Throw Program Charge After August 14, 2015. (Maria Penna)

Maria Penna, Accounting Technician, presented resolution 2015-125 levying an assessment upon customers of the Scratchgravel Solid Waste Management District owning real property in the district and owning a pay-as-you-throw program charge after August 14, 2015. Invoices were mailed to permit holders who had exceeded the 1.5 ton limit or 3,000 lbs for the period of July 1, 2014 through June 30, 2015. Only those accounts owing \$5.00 or more were invoiced. These charges were due and payable by July 31, 2015. Invoices were also sent to the Lewis and Clark Landfill account holders within the Scratchgravel Solid Waste District and upon discussion and advice of the County Attorney's office, these homeowners were also advised that if their accounts have not been paid by July 31, 2015, the past due charges would be placed on their property tax bills. On October 7, 2002, the Scratchgravel Board directed staff to accept PAYT payments beyond the July 31st deadline. They enacted a two week grace period and directed staff to accept payments through the second Monday in August. Staff has extended this grace period to August 14, 2015 to accommodate those account holders who requested an extension. If approved by the County Commissioners, these charges will be placed on the property owner's November 2015 tax bill.

No public comment was received.

A motion to Approve was made by Commissioner Murray and seconded by Commissioner Hunthausen. The motion Passed on a 2-0 vote.

Resolution 2015-129 Declaring Garlic Mustard As A Noxious Weed To Be Put On The Lewis and Clark County Noxious Weed List. (Larry Hoffman)

Larry Hoffman, Weed District Coordinator, presented resolution 2015-129 declaring garlic mustard as a noxious weed to be put on the Lewis and Clark County noxious weed list as requested by the Lewis and Clark County Weed Board to strengthen the Weed Districts efforts in managing the weed infestations. Garlic Mustard is on the federal noxious weed list as an invasive species.

No public comment was received.

A motion to Approve was made by Commissioner Murray and seconded by Commissioner Hunthausen. The motion Passed on a 2-0 vote.

Proposed Modifications to Conditions of Approval for the Preliminarily Approved Lot A-1A Amended of the H.W. Smith Minor Subdivision (Heron Creek, Phases I-VI) (Applicant: Ron Bartsch) (Planner: Greg McNally)

Greg McNally, Planner II, presented the proposed modifications to the conditions of approval for the preliminarily approved Lot A-1A Amended of the H.W. Smith Minor Subdivision (Heron Creek, Phases I-VI) located east of and adjacent to Eames Lane and south of and adjacent to Kier Lane. The applicant received preliminary approval for a 70 lot major subdivision on 129.65 acres. Of those 70 lots, 65 lots were for 1 single-family dwelling each, 1 lot was for 44 condominium units, 2 lots were for parks and 2 lots were for community wastewater treatment. This preliminary approval was granted on September 18, 2007 with 27 conditions of approval. On November 6, 2008, pursuant to a request to modify conditions of approval, the Commission approved a variance request from the 2005 Lewis and Clark County Subdivision Regulations. This variance request was in relation to a modification request to allow a split entryway internal access road design with a structure for the clustered mailbox units. The Commission approved the request for modification and modified 3 of the 27 conditions of approval. On February 28, 2012, pursuant to a second request to modify conditions of approval, the Commission modified the preliminary approval to: add conditions related to the improvement of portions of Eames Lane, add conditions allowing the preliminarily approved subdivision to be developed and platted in six phases and create 44 lots instead of the original preliminary approval for 44 condominium units on the same lot. In consideration of these modifications, the Commission also approved three variance requests

from the 2005 Lewis and Clark County Subdivision Regulations. With the approved modifications, the applicant now has preliminary approval for a subdivision with 112 lots to be completed in 6 phases: 109 lots for one single-family dwelling each, 1 lot to be dedicated as County parkland, and 2 lots for wastewater treatment. The preliminary approval of this subdivision has been extended three times and will expire on September 18, 2015 pursuant to a contractual agreement between the applicant and the Commission. The Planning Department received a fourth request on August 24, 2015 to extend the preliminary approval. On July 30, 2015 and August 4, 2015, the Applicant submitted a third request to modify conditions of preliminary approval for the Subdivision. On August 11, 2015, the Commission agreed to hear the request and the fees were paid to process the request. According to the applicant's request to modify conditions, the first modification request is to reduce the amount of internal road construction in Phase 1 by 170 feet on proposed Fireweed Loop. The second proposed modification is to eliminate conditions that require detailed plans of on-site streams and ponds. These features are apart of the approved stormwater system and the applicant is requesting those plans to be eliminated. The third proposed modification is to eliminate the conditional language that requires the wastewater treatment system and fire protection system to be included in a rural improvement district for maintenance. The fourth proposed modification is to modify the conditional language in Phase I related to the easement width of Peppergrass Road in the area of the mailbox structure. The fifth proposed modification is to eliminate conditions that require specific lot numbering on the plat and related documents. The sixth proposed modification is to eliminate conditions that require a 50-foot setback and a 30-foot buffer from the ephemeral drainage to be shown on the plat. The seventh proposed modification is to eliminate conditions requiring notifications in the covenants of a 50-foot setback and a 30-foot buffer for the ephemeral drainage. The eighth proposed modification is to eliminate the condition that requires an as-built survey of the utilities installed in Phase II. Comments received included concerns from the Conservation District being not in favor of requests to eliminate the requirements for the detailed plans for the streams and ponds, the RID requirements for wastewater and fire protection, the set back and buffer for the ephemeral drainages as they are all good requirements in terms of water quality issues. It was noted that local landowners have noted that those ponds have been filled with irrigation water this summer and that the downhill landowner has already had serious run-off issues. The City-County Address coordinator stated that addresses have been pre-assigned based on the layout previously considered. The Public Works Construction Project Coordinator stated that the condition requiring an as-built survey of the utilities installed should not be eliminated as the Engineer and Developer were aware of this requirement. Additional comments were received from Northwestern Energy stating they are okay with eliminating the as-built survey as the issues have been remedied. Helena Area FWP recommended not eliminating conditions that require a 50-foot setback and 30-foot buffer from the ephemeral drainage. Comments from Jeff Claasen and Terri Corrigan that stress the ephemeral drainage importance.

Break/Reconvene.

Greg McNally stated the additional public comment received included an e-mail from GreatWest Engineering to DEQ responding to the concerns in regards to deficiencies which have been addressed.

Ron Bartsch, the applicant, presented a slideshow to address some of the conditions in the proposal. Mr. Bartsch stated that the mailbox structure was built as presented to the Commission and it was noted was approved by the Commission as well. The roads were chipsealed recently as well. The applicant would like to postpone asphaltting the section of Fireweed Loop until the next phase necessitating continuation of the loop.

Ryan Casne, the applicant's engineer addressed some of the proposed modifications and stated that modification request one is to reduce the amount of road to be paved. That road does have access and it could be added to the financial security on the SIA if needed. Modification two addresses the elimination of detailed plans of on-site streams and ponds. There is one active water feature on the site and there is no intent to flow water through the subdivision to the lower detention pond as proposed originally.

Commissioner Hunthausen asked for clarification about the as-built plans for the stormwater detention and fire ponds.

Ryan Casne stated they do have stormwater and fire detention plans and noted that two of the four ponds have as-built's however the small sedimentation pond and the irrigation storage pond does not.

Commissioner Hunthausen asked if the stormwater detention pond will hold water on a regular basis.

Ryan Casne stated that is correct.

Commissioner Hunthausen asked about the other two ponds that exist and whether or not they are connected to the other system.

Ron Bartsch stated that the largest pond still has a ditch that runs to the center pond from the large pond and noted that water is being controlled on the south end.

Commissioner Hunthausen asked if the irrigation will cease once the phases are all built.

Ron Bartsch stated that is correct. There are 80 acres that are not developed and we intend to continue to do ag production.

Commissioner Hunthausen asked if in the final plan the south pond will be connected to the center pond.

Ron Bartsch stated that is correct. There is a culvert that will redirect water around that loop to the lower stormwater pond. There is a fourth pond that is a small sediment pond located in the center of the site plan. The two ponds that are a part of the system have been platted and approved. The two remaining ponds are recreational.

Ryan Casne asked if this condition has to be met the question will be what standard will the review of the as-built plans be against. Mr. Casne continued with modification number three which is to remove the RID requirement as they would like to have the fire suppression system under the HOA.

Commissioner Hunthausen asked for clarification on how they will ensure everyone will participate in the HOA.

Ryan Casne stated there is a funding mechanism built into the conveyance and the HOA dues. There will be a \$20,000 fund set aside for maintenance of the fire system. The wastewater system is covered by a groundwater discharge permit. Mr. Casne continued to the fourth modification request to change the dimensions to the Peppergrass easement, the entrance structure was built to the preliminary plan but was missed at the time of plat. In regards to the setbacks and buffers from the ephemeral drainage in his opinion the drainage carried water prior to the construction of Eames lane. The water will be rerouted down to the stormwater pond. He does not believe this meets the definition of an ephemeral drainage.

Commissioner Hunthausen asked how would leaving the condition as is in regards to the ephemeral drainage impede your progress to complete the progress of the subdivision.

Ryan Casne stated it will impede the proposal and the building of lot 25 in phase 5. It does not impede the proposal for the phases before you today.

Commissioner Hunthausen asked if there is a building site for lot 25.

Ron Bartsch stated they adjusted the section that is considered in the ephemeral drainage. In his opinion the drainage does not exist.

Greg McNally pointed out the original findings of fact in the staff report and the Commission modified one condition related to this setback in 2008 in regards to lot 25. He believes the intent would be to show a set back and buffer shown on the final plat for lot 25. The applicant does not want to show the drainage on the plat.

Ryan Casne stated that modification number 8 in regards to the requirement of having an as-built survey of the utilities installed as the conduit cannot be located making it difficult to accurately survey all service stubs. There has been an additional 10 feet of utility easement along the front of each lot in Phase II and the utility easement is supported by the utility company.

Commissioner Hunthausen stated what they have found in multiple subdivisions when the lots are tight because of utility easements that the commission is doing all kinds of encroachments and they would like to avoid that at all possible.

Ron Bartsch stated he is a hundred percent confident with the utility easements. He stated that Northwestern Energy has confirmed that each lot has service. They are trying to allow as much flexibility as possible with setbacks to ensure they are flexible. The center portion will be built by Sussex Construction providing understanding and assurances. The lots will not be pre-sold they will be sold with the homes pre-built.

PUBLIC COMMENT-

Jeff Claassen, 5545 Kier Lane, stated he has submitted written comments and expressed concerns about use of the land and ephemeral drainage's. He stated there is no protection for the watershed for Spokane Creek.

Ben Quinones, neighbor of the subdivision, stated he has experience in construction management and water behavior. He supported the proposed elimination of paving the road in sections and the easement with the structure on Peppergrass. He asked to keep the condition of having an as-built survey done and the condition in regards to the detailed plans of on-site streams and ponds. He asked if the RID would affect him as a neighbor and if he would be required to pay into that and asked about the existence of the ephemeral drainage. He stated that the drainage is being used as a landfill and is filled with solid waste.

Terri Corrigan, 5545 Kier Lane, stated that the conditions were put into place to protect against problems and does not support eliminating the conditions.

Jeff Claassen stated that there is a discharge chute in the detention pond and comes down a steep ravine.

Hearing no further comment, Commissioner Hunthausen stated that public comment is now closed.

Greg McNally clarified that this is the applicant's third request to modify conditions. The RID is for internal improvements of the subdivision and will not include property owners outside of the subdivision. The as-built survey came about after the second modification request.

Commissioner Murray asked if staff requested all of these changes.

Greg stated that staff noted to the applicant that these are conditions that the applicant was not intending to complete and presented the option to have these conditions as a modification request. Staff prefers to bring forward a proposal have all the conditions met prior to final plat.

Ron Bartsch stated that the ephemeral drainage has not been removed.

Ryan Casne stated the as-built survey could be performed but it will not prove that utilities are abutting and available to each lot. He read the definition of an ephemeral stream as per the State of Montana and noted that in his opinion once the construction is complete this will no longer meet the definition.

Commissioner Hunthausen asked for clarification that the County regulations require a DEQ stormwater plan be approved.

Greg McNally stated that is correct and that has been done in this proposal.

Commissioner Hunthausen stated that regulations state that all the water will be captured and taken to the stormwater detention pond.

Ryan Casne stated the plan has been approved by DEQ.

Commissioner Hunthausen asked for clarification on the comments received from Northwestern Energy stating an as-built survey with a 10 foot easement along the front of the lots.

Greg McNally stated that Northwestern Energy did state they are confident they can provide utilities to the lots with the 10 foot easement.

Commissioner Hunthausen asked for clarification on the address change.

Greg McNally stated that when you file a plat you have a lot layout and a numbering system that is fairly consistent. The original subdivision had that system however the modification request included a recommended change to the numbering with each phase. It's not a survey requirement but assists administratively and with servicing of the lots.

Commissioner Hunthausen asked for clarification on the outflow from the storage pond and how it works.

Ryan Casne stated he cannot defend or support that plan as he did not design the plan however it was approved by DEQ and has no further comment.

A motion to table the item until the regularly scheduled meeting on September 10, 2015 and to keep the public comment open was made by Commissioner Murray and seconded by Commissioner Hunthausen. The motion Passed on a 2-0 vote.

Resolution 2015-128 To Create the Heron Creek Rural Improvement District No. 2015-9. (Matt Heibel)

Matt Heibel, Special Districts Planner, presented resolution 2015-128 to create a Rural Improvement District for the proposed Heron Creek Subdivision in order to satisfy conditions of approval. The general character of maintenance of public access easements and public trail easements within the boundaries of the district includes, but is not limited to: snow plowing, street sweeping, culvert cleaning, mailbox maintenance, contributions toward a future chip seal, crack sealing, miscellaneous work as needed, parkland maintenance, and trail maintenance. The estimated cost for funding maintenance in Phases 1, 2 and 3 is \$13,259.58 per year or \$181.64 per parcel per year. The estimated cost for funding maintenance in Phases 4, 5, and 6 is \$7,666.84 to be reviewed upon final plat of one or more of Phases 4, 5, or 6. In 2016, road maintenance cost for phases I-III will be assessed upon benefited properties. The lots that may be further divided in the future are included as benefited properties. The preliminary costs and details for road maintenance of roadways in phases IV-VI are included in the district's "scope of service" under this resolution so that the district does not need to go through an amendment process when more phases are final platted. Road maintenance for phases IV-VI will not be assessed until roads in one or more of these phases are constructed.

No public comment was received.

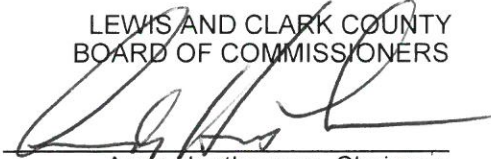
A motion to table the item until the regularly scheduled meeting on September 10, 2015 was made by Commissioner Murray and seconded by Commissioner Hunthausen. The motion Passed on a 2-0 vote.


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 11:33 am.

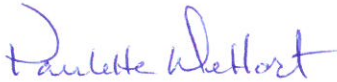
LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Andy Hunthausen, Chairman


Michael Murray, Vice Chair


Susan Good Geise, Member

ATTEST:



Paulette DeHart, Clerk of the Board