

PUBLIC MEETING
February 13, 2007

Chairman Mike Murray called the meeting to order at 9 a.m. Commissioner Tinsley was present. Commissioner Hunthausen was attending a MACo Conference. Others attending all or portion of the meeting included Kelly Blake, Terry Swope, Cheryl Green, Kim Smith, Tyler Emmert, Mike Fasbender, Vivian Drake, Larry Kline, Vern Evans, and Maria Penna-Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Announcements. President's Day Holiday – Monday, February 19, 2007.

Consent Items. Kelly Blake reported on the consent agenda and recommended approval.

- a. Memorandum of Understanding Between the Montana Department of Transportation and Lewis and Clark County to Coordinate an Equipment-Operation Academy for 2007. (Janet Pallister)
- b. Resolution Ordering a Refund of Taxes/Fees/Assessments Paid to Jeffrey W. and Deborah Grewett in the Amount of \$34.12. (Terry Swope-DOR)
- c. Resolution Ordering a Refund of Taxes/Fees/Assessments Paid to Robert and Marvelyn Babcock in the Amount of \$34.12. (Terry Swope-DOR)

Hearing no public comment, Commissioner Tinsley moved approval of the consent agenda and authorized the Chair to sign. Chairman Murray seconded the motion and it carried 2-0.

Reconsideration of Denial in 2004 for the Frontier Major Subdivision. (Applicant, Kim Smith) (Planner, Michael McHugh). The Commission will consider whether to rehear this subdivision proposal.

Kelly Blake gave some background information on this subdivision proposal. On February 17, 2004, the Commission held a public meeting and voted to deny this subdivision. The proposal consisted of 36 lots; 24 lots were to be used for single-family residential, 6 lots for multi-family residential, and 6 lots for commercial businesses. In that process, the DNRC created the Northern Hills Control Groundwater area and on September 12, 2006, the department determined that the North Hills Control Groundwater area should expire. As a result of that action Mr. Smith, once he had received a denial from the Board of County Commissioners, filed judicial action with the court on February 27, 2004. He had 30 days from the time the Commission denied his subdivision to do that which in effect, kept the issue before the court and it was not served—it was only filed, so he had up to 3 years to initiate that action. As a result of DNRC doing away with the study area and having the groundwater control area expire, staff received a letter from Mr. Smith's attorney requesting reconsideration of the subdivision. The action before the Commissioners today would determine whether to reconsider this and set a hearing date for the matter.

Commissioner Tinsley asked for clarification. If the Commission approves this request a public hearing would be scheduled to reconsider if there is potentially new evidence that should be heard?

Kelly Blake responded that is correct. There would be no public testimony today. This would just determine whether you wish to reopen the issue, consider the information provided by Mr. Smith and his attorney, and set a hearing date.

Tyler Emmert, Stahly Engineering, 675 Jeanne Road, stated on October 24, 2006 Stahly submitted a letter in reference to five items they believed were new evidence to reconsider in this application and asked for an opportunity for a public hearing and represent this subdivision.

Kim Smith stated at the time this subdivision was denied there was a high level of concern regarding the water and that was mostly the basis for the denial. Because the groundwater study area was discontinued, he requested the Commission review the proposal again.

Vivian Drake, 7463 Cactus Flats Drive, had an opportunity to review the information that was resubmitted on behalf of Mr. Smith and believes there is no new technical information or testing done in the area. Those items were based on another subdivision test more than one-half mile away and in close proximity to the Helena Valley Irrigation Canal. The temporary control groundwater area was not expired, it was ordered that the temporary designation be discontinued and that particular order is currently in litigation. She asked the Commission to look at the Montana Department of Environmental Quality report on endocrine disrupters, pharmaceutical's and caffeine.

Hearing no other public comments, Commissioner Tinsley moved approval of the request to schedule a public hearing for reconsideration and ask staff to work with the applicant to schedule an appropriate date. Commissioner Murray seconded the motion.

Commissioner Tinsley believed that Mr. Smith and his advisors have presented some information to the Commission to look at and consider if it is worthy of reconsideration.

Chairman Murray was satisfied that there was new evidence presented in the seven points in applicant's letter.

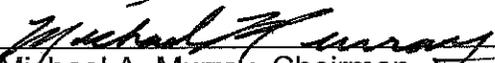
The motion carried 2-0.

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

Tyler Emmert, 675 Jeanne Road, thanked Commissioner Tinsley for his participation in the stream access law. He and his brother access streams in various points throughout the state and use those bridges for access.

There was no other business and the meeting adjourned at 9:15 a.m.

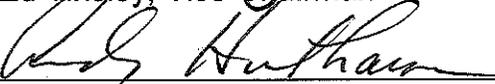
LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Michael A. Murray, Chairman



Ed Tinsley, Vice-Chairman



Andy Hunthausen, Member

ATTEST:



Paulette DeHart, Clerk of the Board