

PUBLIC MEETING

April 17, 2007

Chairman Murray called the meeting to order at 9 a.m. Commissioners Hunthausen and Tinsley were present. Others attending all or portion of the meeting included Ron Alles, Kelly Blake, K. Paul Stahl, Frank Rives, Eric Spangenberg, Janet Cerovski, Carole Byrnes, Laura Erikson, Christal Ness, Marni Bentley, Greg McNally, Michael McHugh, Lindsay Morgan, Stephen Krawiec, Mathew Elvbakken, Jim Taylor, Janet Pallister, Carol Hanel, Cheryl Green, Dr. Marsha Davis, Larry Kline, Jeff Sealey, Jim Mitchell, Dorothy Mitchell, Wayne Middlestead, Dave Carson, Harold Chowder, Ramon Crocker, Lon Schroeder, Elaine Marcille, Ed Larson, Shawn Bryant, and Maria Penna-Recording Secretary.

Pledge of Allegiance. Everyone recited the pledge.

Vice Chairman Tinsley conducted the meeting because Chairman Murray just returned to the office from his medical leave.

Consent Items. Ron Alles reported on the consent agenda and recommended approval.

- a. MDOT Yearly Certification of Roadway Mileage.
- b. Request for One Year Extension for the Stallion Ridge Ranch to 2/10/08. (Applicant, Norbert Waldenmeyer) (Tabled from 4/5/07) (Planner, Frank Rives)
- c. Resolution Ordering The Cancellation Of Personal Property Taxes That Has Been Delinquent for Five (5) Years. (Cheryl Green)
- d. Resolution Declaring County Property Surplus Property Individually Valued At Less Than \$2,500.00. (9 Vehicles – Sheriff's Office)
- e. DPHHS Renewal Contract No. 07-074-5-31-024-0. Extend Contract to August 31, 2008 for Fetal Alcohol Spectrum Disorder Prevention Services. Amount Available in this Contract is \$71,212.00. (Dorothy Bradshaw)
- f. Contract Amendment #1 for Helena Valley Mosquito Control District. To extend the contract to August 15, 2007 to complete educational DVDs. (No change in contract amount) (Larry Hoffman)
- g. Bureau of Land Management Financial Assistance Agreement in the Amount of \$5,000.00. To Develop and Implement Public Wildfire Education, Training, and/or Community Action/Involvement Programs as Part of DES Hazardous Fuels Reduction Project. (Paul Spengler)
- h. Contract and Encroachment Agreement. Northwestern Energy for the roads and right-of-way described as Chevalier Road Right-of-way, located in four separate locations; generally located north of the intersection of Stonehouse Road and Chevalier Road to install and maintain new 20" natural gas transmission lines to cross Chevalier Road.
- i. Contract and Encroachment Agreement. Northwestern Energy for the roads and right-of-way described as Wolf Road Right-of-way, located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 18, T10N, R3W; generally located west of North Montana Avenue to install and maintain new 10" Natural Gas Transmission Lines to be Installed in the Wolf Road

Right-of-way.

Commissioner Tinsley noted for the record consent item "a" the total current mileage was 1495.963 and the adjusted mileage was 1516.327 miles of road in Lewis and Clark County.

Hearing no public comments, Commissioner Murray moved approval of the consent agenda and authorized the Chair to sign. Commissioner Hunthausen seconded the motion and it carried unanimously.

Request for Proposals. Helena Valley Mosquito District Management Proposal. (Larry Hoffman) Commissioner Murray reported one proposal was received from JHS, Inc. of Helena, Montana in the amount of \$147,450. Time of performance and termination is May 1 through April 31, 2008.

Hearing no public comments, Commissioner Hunthausen moved to return the proposal to staff for review and recommendation to the Board at a future public meeting. Commissioner Murray seconded the motion and it carried unanimously.

Public Hearing. A Resolution Levying And Assessing A Tax Upon All Benefited Property Within The Riddock Rural Improvement District No. 1985-1. Marni Bentley reported there is a lot at the end of the road that does benefit from the use of Sun Valley road and should be added to this RID. Some immediate maintenance is needed on Sun Valley Road and the county will obtain a loan to do that work. The assessment will be \$90 per year per lot for 10 years and \$155 per lot in perpetuity for a total of \$245.00 per lot per year for road maintenance activities. Staff recommended approval of the resolution.

Dave Carson, 1030 Sun Valley Road, stated he was against this proposal. He does not want an increase in his taxes and believed the road does not need much maintenance.

Wayne Middlestead, 1055 Sun Valley Road, presented a petition signed by 15 out of 19 people on Sun Valley Road to not to do anything to the road this year.

Hearing no other public comments, the public hearing was closed. Commissioner Murray moved to render a decision at 10:00 a.m. Thursday, April 17. Commissioner Hunthausen seconded the motion and it carried unanimously.

Public Hearing. A Resolution Levying And Assessing A Tax Upon All Benefited Property Within The Green Acres Rural Improvement District No. 2001-8. Marni Bentley reported the district was created in 2001 as part of conditions of approval for the Green Acres Subdivision. The developer made some improvements to the roads prior to the rate hearing in 2003 and the board set a new rate at \$140 per lot per year. This year the county's RID engineer determined several improvements were needed immediately, but adequate funds to perform the maintenance were not available in the RID fund and the current assessment rate is also not adequate for future chip-seal

work. The county will obtain a loan to perform the project for this year. Staff proposed the annual assessment be raised to \$124 for 10 years and \$255 in perpetuity for a total of \$379 per lot per year for the road maintenance activities. Some questions involved dissolving the district, and staff could not support dissolving the RID or changes to the approvals or covenants at this time. Based on the information, staff recommended the county move forward with the engineer's recommendation for immediate maintenance and future chip-seal needs and approval of the resolution.

Lon Schroeder, 2780 Lifestyle Lane, was present representing the Homeowners Association, asked for discussion on present revenue and cost projection. Right now the association would object to the \$200 future assessment in terms of where this project goes forward.

Dr. Marsha Davis, 3605 Tizer Road, believed it was unfortunate that the developer set up the RID with a lesser amount than what was originally established. The current assessment of \$140 proved to be inadequate to do the required work. She opposed the additional \$200 in the resolution.

Hearing no other public comments, the public hearing is closed.

Janet Pallister prepared the cash flow for this project and estimated \$9,637 available in the RID account. She explained other itemized costs involved such as state required administrative fee and engineering services.

Commissioner Murray moved to render a final decision Thursday, April 19, at 10 a.m. in this room. Commissioner Hunthausen seconded the motion and it carried unanimously.

Resolution for the Abandonment and Realignment of the Smith Creek Road.
(Petitioners Haystack LLC and Jimmie Parsons) (Planner, Frank Rives) The Commissioners will consider the resolution abandoning a segment of the Smith Creek Road and creating right-of-way where the existing road is located, more specifically located in Sections 32 and 33, T20N, R7W.

Frank Rives prepared a certificate of survey for the realignment, quit claim deeds, easement, and a resolution for the abandonment and realignment of the road to complete this matter.

Hearing no public comments, Commissioner Hunthausen moved approval and authorized the Chair to sign the necessary documents. Commissioner Murray seconded the motion and stated the amendment would align Smith Creek Road with the bridge that was repaired 2 or 3 years ago. The motion carried unanimously.

Final Plat Approval and Subdivision Improvements Agreement for the Overlook Acres 3 Lot Subdivision. (Applicant, Hamlin Construction and Development Co.) (Planner, Greg McNally) (Tabled from 4/3/07)

Greg McNally reported once staff has deemed a final plat application complete, the Board of County Commissioners has 35 working days in which to make a decision on that particular recommendation. The application was deemed complete on April 2, 2007.

Hearing no public comments, Commissioner Murray moved to render a final decision Thursday, May 17 at 10 a.m. Commissioner Hunthausen seconded the motion and it carried unanimously.

The Commission recessed at 9:43 and reconvened at 9:55 a.m.

Proposed Major Subdivision, Preliminary Plat to be known as Foster Tracts Lot 1A Amended. (Applicant, Jim Mitchell) (Planner, Michael McHugh) (Tabled from 3/13/07) Decision. The Commissioners will consider creating 11 lots each for one single-family dwelling. The existing 12.33-acre tract would be divided into 11 lots ranging in size from 1.0 acres to 3.14 acres. Currently Lot 1A-2B and Lot 1A1-9 are developed with single-family dwellings. The subject property is generally located north of Canyon Ferry Road and west of and adjacent to Ranger Drive.

Staff's initial recommendation was for approval subject to 19 conditions. The planning board recommended approval with amendments and are reflected in conditions 6 and 10 of the transmittal memo. The applicant also requested three variances: (1) to allow double fronted lots; (2) to not bring Ranger Road up to the current standards (3) to not improve Holmberg Drive, which would be the second ingress/ egress route to the new county paved standards which would require additional asphalt topping and additional subsurface gravel.

Commissioner Murray moved approval of the variance request for double fronted lots. Commissioner Hunthausen seconded the motion and it carried unanimously.

Commissioner Murray moved to withdraw two variance requests for roads and refund the application fees to the applicant, based on current litigation regarding off site road issues. Commissioner Hunthausen seconded the motion and it carried unanimously.

Commissioner Tinsley asked the applicant if he would be willing to extend the review period 3 months to allow the applicant an opportunity to work with staff to put together an RID to take care of the roads that have been identified as unsafe.

Jim Taylor, 8422 Diamond Springs Drive, agreed to extend the review period 30 days at this time.

Deputy County Attorney Stahl did not recommend changing other conditions at this time.

Commissioner Murray moved, at the request of the applicant, to extend the statutory deadline to May 18 and schedule the hearing for Thursday, May 17. Commissioner

Hunthausen seconded the motion and it carried unanimously.

Proposed Subdivision, Preliminary Plat to be Known as Krawiec Subdivision. (Applicant, Stephen Krawiec) (Planner, Lindsay Morgan) (Tabled from 4/3/07) The Commissioners will consider creating 5 lots, each for one single-family dwelling. The proposal is generally located north of and adjacent to Snowdrift Road, just east of Ferry Drive.

Commissioner Tinsley asked Mr. Krawiec to consider the previous dialog and extend his proposal to May 18 and schedule the hearing for Thursday, May 17. Mr. Krawiec agreed.

Commissioner Murray moved to remove the variance request and return the application fees to the applicant. Commissioner Hunthausen seconded the motion and it carried unanimously.

Commissioner Hunthausen moved, at the request of the applicant, to extend the statutory deadline to May 18 and schedule the hearing for Thursday, May 17. Commissioner Murray seconded the motion and it carried unanimously.

Proposed Minor Subdivision, Preliminary Plat to be Known as the Amended Plat of Tracts 1A & 2A Hampton Subdivision. (Applicant, Mathew Elvbakken) (Planner, Lindsay Morgan) (Tabled from 4/3/07) The Commissioners will consider creating four lots, each for one single-family dwelling. If approved the existing 4.814-acre tract will be divided into lots ranging in size from 1.000 acres to 1.521 acres. The site is generally located south of and adjacent to Old York Road and west of and adjacent to Tizer Road.

The applicant was present and indicated his willingness to proceed.

Lindsay Morgan presented the staff report. Access to three of the proposed parcels would be off of Old York Road; access to the remaining proposed lot will be off of Tizer Road. Tizer Drive is hard surfaced between York Road and Old York Road while the remainder is gravel. An abandoned irrigation ditch is located on site and would be eliminated prior to final plat approval. There is the potential for sheet flooding on site and/or in the area due to other irrigation ditches located in close proximity to the subject property. This proposal would not generate any additional traffic on Tizer Road. No fire condition in the proposal at this time. Staff recommended approval of the proposed subdivision subject to 16 conditions as outlined in the staff report.

Commissioner Murray: Mr. Chair, just so we understand, on the Old York Road in a previous Subdivision the road was deemed to be in good shape other than it needed to be the weeds in the cracks needed to be sterilized and a crack seal needed to be applied and that was done in a previous Subdivision so I believe the Old York Road is in fine shape.

Mathew Elvbakken, 3550 Tizer Road. His residence was part of a previous subdivision and the fire fee was paid at that time.

Commissioner Tinsley told Mr. Elvbakken the fee applied to his prior subdivision but it does not apply to the future one.

Deputy County Attorney Stahl explained that the district court threw out Appendix L of the county subdivision regulations, which specifically provided regulations regarding fire and fire protection for subdivisions. Section S refers to Appendix L which has been declared illegal but still within our regulations which follow statute to protect public health and safety. The county has the authority to require some sort of fire protection in subdivisions and suggested language to proposed condition 8, "The applicant and the county must agree prior to final plat approval on fire protection measures that minimize the risk of fire and that permit the affective and sufficient suppression of fires." The court order specifically found that water sprinklers could not be used for fire suppression by the county. He intends to have amendments prepared by the middle of June that will provide more specifics but until that time he recommended, based upon legal authority, that this is the only language that can be inserted into subdivision approvals.

Hearing no public comments, Commissioner Murray moved to withdraw two variance requests for roads and refund the application fees to the applicant. Commissioner Hunthausen seconded the motion and it carried unanimously.

Commissioner Murray moved to render a final decision on this proposal on Thursday, April 19 at 10 a.m. Commissioner Hunthausen seconded the motion.

Hearing no other public comments, the motion carried unanimously.

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

Statement by Mr. Stahl. We cannot require at the present time in most instances the conditions regarding fire and off-site roads. People coming in to accept final plat probably cannot because we cannot require the conditions that we already have in their subdivision approval.

Commissioner Tinsley said it is a shame where we are right now and in our attempt to give a-la-carte set of options to those who want to develop--apparently didn't want those options so it limits our ability of what we can do.

There was no other business and the meeting adjourned at 10:38 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