

**PUBLIC MEETING
MARCH 15, 2012
MINUTES**

The Lewis and Clark County Commission Public Meeting was held on Thursday, March 15, 2012, at 10 a.m. in Commission Chambers Room 330 of the City-County Building, 316 North Park Avenue, Helena, Montana.

Chairman Andy Hunthausen called the meeting to order at 10 a.m. Commissioner Mike Murray and Commissioner Derek Brown were present. Others attending all or a portion of the meeting included Eric Bryson, Katie Jerstad, Kelly Blake, Greg McNally, Keith Hatch, Carrie Severson, Marnie Bentley, Ryan Casne, Glenn Hayes, and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson)

- a. Vendor Claims Report for the Week of March 12, 2012. (Marnie Bentley)
- b. Blackfoot Watershed Cooperative Conservation Agreement. Purpose: Documenting the Cooperation Between Parties for the Enhancement, Conservation and Protection of Natural Resources and Rural Way of Live in the Blackfoot Watershed for the Period Ending December 31, 2012. (Larry Hoffman)
- c. Memorandum of Understanding Between Cooperative Health Center, and L&C County Sheriff's Office for Dental Services for Co. Jail Inmates for Period Ending March 13, 2014. (Kate McIvor)
- d. Construction and Maintenance Agreement No. 02674[1] 8-8-11 Between Lewis & Clark County and Burlington Northern SantaFe Railway Company for Bridge Replacement on County Road 5 Adjacent to US DOT No. 104424W. (Audra Zacherl)

Eric Bryson recommended approval of the consent agenda items.

No public comment was received.

Commissioner Brown moved to approve the consent action items and authorized the Chair to sign where appropriate. Commissioner Murray seconded the motion. The motion carried 3-0.

Proposed Modifications to Conditions of Approval for the Timberworks Estates Subdivision, Phases II-VIII and Variance Request from Chapter XI.H.3 of the Subdivision Regulations. (Applicant: Frontier Builders, Inc.) (Planner, Greg McNally) (Tabled from 3/8/12) Decision

Greg McNally's memo outlined proposed language for modified conditions of approval. This language has been shared with the applicant and the applicant's engineer. The language does not supplant staff's original recommendations. Mr. Casne stated overall

he and the applicants were satisfied with the new language modifications.

Commissioner Brown provided suggested modifications based on previous public meetings addressing those issues of trigger points and the length of time of the agreements. Mr. Casne generally accepted the modifications and will work with staff to iron out minor details.

Commissioner Murray moved to approve the modifications for preliminary approval for Timberworks Estates, Phases II-VIII, as prepared by staff. Commissioner Hunthausen seconded the motion.

Variance, PART B, Condition of Approval No. 11, Phase II – Intersection Design Improvement. Proposed language, “If required by the Montana Department of Transportation, the Applicant shall complete the improvements to the intersection of Lincoln Road and North Montana Avenue . . .” Commissioner Murray moved to approve the variance as requested. Commissioner Brown seconded the motion. The variance will not cause substantial increase to public costs and the variance will not place the subdivision in non-conformance with any of the adopted zoning regulations or applicable adopted plans. The motion carried 3-0.

Modification of the Condition No. 11, Phase II.

Proposed language, “If required by the Montana Department of Transportation, the applicant shall complete improvements to the intersection of Lincoln road and North Montana Avenue to ensure that the Level of Service is at or above the LOS D that existed at the time, December 15, 2010, of submission of the complete and sufficient application.”

Commissioner Brown moved to change the language to “requested” instead of “required.” Commissioner Murray seconded the motion for discussion purposes. Mr. Casne discussed his concern about “requested,” as opposed to “required.” The applicant would prefer “required” instead of “requested.”

Commissioner Brown withdrew his motion and moved to insert the language, “If required by the Montana Department of Transportation, the Applicant shall....” Commissioner Murray seconded the motion. The motion carried 3-0.

Commissioner Murray stated that since the variance was approved, he moved to add Condition 19.aa to the restrictive covenants in Phase II, as noted in the staff memo dated March 15th. Commissioner Brown seconded the motion for discussion. After discussion, Commissioner Brown voted No, putting in that restrictive covenant is unenforceable and unnecessary. The motion carried 2-1.

PART A, Allow for a financial guarantee for future payment of percentage of impact to impacted off-site roads. Staff recommended denial. Example language was provided in staff’s memo dated March 15, 2012, based on Commission discussion.

Commissioner Brown moved to provide replacement language to say, "a. When Phase II is final platted, the Applicant will either pay the county 84.06% of the following percentages or provide an acceptable financial security in accordance with Appendix E of the County Subdivision Regulations. The guarantee shall be in effect for three years or until the County initiates an improvement project covering the described sections of road as described in the PER (section b), whichever occurs sooner." Commissioner Murray seconded the motion. The language was acknowledged and accepted by Ryan Casne and the applicant. The motion carried 3-0.

PART C, Condition 12, Phase II. Left-turn lane on N. Montana. Example language was provided in staff's memo dated March 15, 2012, based on Commission discussion. Commissioner Brown offered to modify the language to read, "Prior to filing of the final plat, the following improvements shall be installed or otherwise financially guaranteed," and then adding after that, "The financial guarantee may be accepted after the completion of development of the 9th commercial lot in the development at which time the improvements are to be completed." Ryan Casne would rather leave it written as staff had recommended.

Commissioner Murray moved to adopt the staff language for this condition. Commissioner Brown seconded for discussion. If we don't put something in about the trigger point of the 9th commercial lot then it can be whatever it is in the Subdivision Improvements Agreement and voted No. The motion carried 2-1.

PART D, Condition No. 19.aa. Phase II. Request to modify the Conditions of Approval to allow a Subdivision Improvements Agreement for a wastewater treatment system for Phases II, III, IV, V, VI and VII. Example language was provided in staff's memo dated March 15, 2012, based on Commission discussion. Condition No. 19.aa would now become Condition 19.bb.

Commissioner Brown moved to provide added language at the end of Condition 19.aa, "If a financial guarantee is used for the wastewater system, until the wastewater system is approved and operational, the Applicant agrees, in the SIA, to provide written notice in all buy/sell agreements that the wastewater system is not operational." Commissioner Murray seconded the motion. The language was acknowledged and accepted by Ryan Casne and the applicant. After discussion, the statement would be inserted in all of the conditions that involve the wastewater treatment system. The motion carried 3-0.

Commissioner Murray moved to adopt the staff's proposed language. Commissioner Brown seconded the motion. The motion carried 3-0.

Commissioner Murray moved to adopt the proposed modifications as amended. Commissioner Hunthausen seconded the motion. Commissioner Brown stated he was not comfortable that every detail has been covered and voted against the motion. The motion carried 2-1.

A Resolution Releasing Claim to Right, Title, Estate or Interest of Property for the Purpose of a Quiet Title Action. (Carrie Severson) The property is located in the south part of the SW1/4 of the NW1/4 of the SW1/4, Section 5, T10N, R3W.

Carrie Severson reported that Norma Vargas and Clifford Johnson were seeking quiet title to a strip of land 30 feet wide located between Montana Avenue and Interstate 15, south of Forestvale, and between Forestvale and Valley Speedway. In order to accomplish this task the county may release any claim to title or interest in this property. The property does not serve as legal or physical access to surrounding private properties, or to any public opportunity such as recreation, parks or any public land. Staff recommended that the Commission approve the release of claim of possession of the property as it does not appear to benefit the county or the public.

Deputy County Attorney Katie Jerstad stated this was not a dedicated County road laid out along the center line of a property. It was a 30-foot access easement that was reserved by the original property owner who split the property.

No public comment was received.

Commissioner Brown moved to approve the resolution and authorized the Chair to sign. Commissioner Murray seconded the motion. The motion carried 3-0.

Change Order No. 1 to Contract Between Lewis & Clark County and Golden Eagle Construction for Soil Stabilization for Fairgrounds New Entry Gate Project in the Amount of \$7,941.90. (Keith Hatch)

Keith Hatch reported that with this \$7,941.90 change order for soil stabilization the new total contract amount is \$156,356.90 for the new entry gate.

No public comment was received.

Commissioner Murray moved to approve the change order and authorized the Chair to sign. Commissioner Brown seconded the motion. The motion carried 3-0.

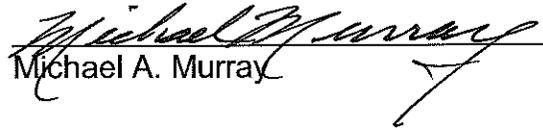
Public comment on any public matter within the jurisdiction of the Commission that is not on the agenda above. None.

There was no other business, the meeting adjourned at 11:17 a.m.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Andy Hunthausen, Chairman



Michael A. Murray

Derek Brown

ATTEST:


Paulette DeHart, Clerk of the Board