

**PUBLIC MEETING
DECEMBER 17, 2013
MINUTES**

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, December 17, 2013, at 9 a.m. in Commission Chambers Room 330 of the City-County Building, 316 North Park Avenue, Helena, Montana.

Chairman Mike Murray called the meeting to order at 9 a.m. Commissioner Andy Hunthausen and Commissioner Susan Good Geise were present. Others attending all or a portion of the meeting included Eric Bryson, Jeremy Gersovitz, Cheryl Green, Tammy Potter, Charles Gilmore, Lindsay Morgan, Thea Sperline, Keith Cook, Jennifer Reese, Staci Stolp, Clark Canevaro, Clinton Cazier, Joyce Evans, Lucy St. Onge, Dan Chovanak, Damon VanDiest, Cherche Prezeau, Juan and Lucy Lozano, Candace Payne, Jack Walsh, Al Knauber, and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson)

- a. Amendment No. 1 to Consultant Services Agreement Dated 10/3/13 between L&C County and Stahly Engineering & Associates, Inc. Establishing Completion Date of 12/31/14. (Kyle Thomas)
- b. Resolution 2013-117 Ordering a Refund of Taxes/Fees/Assessments Paid by Theresa M. Rush in the Amount of \$706.69. (Cheryl Green)
- c. Release and Settlement Agreement between Lewis & Clark County and Back Door Mountain, LLC. (Eric Bryson)

Eric Bryson reported on the Consent Agenda Items and recommended approval.

No public comment was received.

Commissioner Hunthausen moved approval if Consent Action Items 2.a. through c.

Commissioner Good Geise seconded the motion. The motion carried 3-0.

County Funds Transfer for Medicaid Match Agreement between Lewis & Clark County and MT Dept. of Public Health and Human Services. (Eric Bryson) The Commission will consider the agreement providing for county funding for Medicaid reimbursement to MT DPHHS for mental health services in the amount of \$69,395 for each Fiscal 2014 and FY 2015.

Eric Bryson presented the Medicaid Match Agreement that provided \$1 of local funds to match \$2 of federal funds which are then distributed back to licensed mental health centers to augment services. Discussions had taken place between MACo, certain county representatives and the licensed mental health centers in the state regarding withholding these funds and directly allocating them to the mental health centers or finding another way to better leverage those funds; however, agreement was reached to continue the current practice for the time being. One change from previous agreements was the addition of a provision that said if for some reason the state wasn't able to match with federal dollars, or there was a shortage in funds, the County would be reimbursed anything not spent from the state of these local dollars. Staff recommended approval of the agreement.

No public comment was received.

Commissioner Hunthausen moved approval of the County Funds Transfer for Medicaid Match Agreement between Lewis & Clark County and MT Dept of Public Health and Human Services, as presented by Mr. Bryson.

Commissioner Good Geise seconded the motion.

Discussion –

Commissioner Good Geise thanked MACo and Commissioner Hunthausen for their work on the agreement; however, she did not support the motion, stating her belief that the \$69,395 was not needed for Medicaid match, that DPHHS had an enormous budget and could find state funds to provide the Medicaid match.

Commissioner Hunthausen acknowledged his role in negotiating the agreement with DPHHS and the Governor's Office. The reason for not changing the process was that this was the way the budget was contemplated during the last Legislative Session. During the interim, counties and DPHHS, and a MACo committee, would work to determine a different way of providing Medicaid match.

Commissioner Murray expressed his past concerns that the State had not returned all matching funds to mental health centers. However, through the efforts of MACo and Commissioner Hunthausen, he felt the issue had been resolved and supported receipt of federal matching funds.

The motion carried 2-1. Commissioner Good Geise voted no.

Cooperative Law Enforcement 2014 Annual Operating Plan & Financial Plan between Lewis & Clark County Sheriff's Dept. and USDA Forest Service, Helena & L&C National Forests. (Tammy Potter) The Commissioners will consider the agreement in the amount of \$11,880 allowing for patrol of specific Forest Service Roads on the Helena National Forest and campgrounds as outlined in the agreement for the period 12/17/13 – 12/31/14.

Tammy Potter, Finance Coordinator, reported on the Cooperative Law Enforcement 2014 Annual Operating Plan and Financial Plan between the Sheriff's Dept. and the Forest Service. The Plan provided for reimbursement of funds for the deputies to patrol Forest Service roads and campgrounds in the Helena and Lewis & Clark National Forests.

No public comment was received.

Commissioner Good Geise moved approval of the Cooperative Law Enforcement 2014 Annual Operating Plan & Financial Plan between Lewis & Clark County Sheriff's Dept. and USDA Forest Service, Helena & the L&C National Forests, as outlined by Staff.

Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Motorola VHF ASTRO 25 Trunked Radio System Upgrade Proposal between the L&C County Sheriff's Office and Motorola Solutions. (Charles Gilmore) The Commissioners will consider the proposal in the amount of up to \$1.615 million.

Charles Gilmore presented the Motorola Radio System Upgrade proposal between the Sheriff's Office and Motorola Solutions in the amount of up to \$1,615 million. The system provides interoperable communications between law enforcement agencies and first responding agencies. The last upgrade was in November 2008. The required upgrade would bring the system into compliance with the Criminal Justice Information Network and would affect 54 radio sites, 7 dispatch centers and 2 master sites. The Legislature appropriated the funds for upgrades and maintenance and requested that Mr. Gilmore serve as project manager for the upgrade.

No public comment was received.

Commissioner Hunthausen moved approval of the VHF ASTRO 25 Trunked Radio System Upgrade Proposal between L&C County Sheriff's Office and Motorola Solutions, as presented.

Commissioner Good Geise seconded the motion. The motion carried 3-0.

Subdivision Improvements Agreement Completion Date Extension and Updated Financial Guarantee for the Northstar P.U.D. – Phase VI-B. (Applicant: Northstar Development, L.L.C. (Dan Chovanak)) (Planner: Lindsay A. Morgan) The Applicant is requesting an extension of the completion date for the Northstar P.U.D. - Phase VI-B. The property is located north of Valley View Road and west of North Montana Avenue.

Lindsay Morgan, Planner, state the subdivision had been granted preliminary approval on August 16, 2005. Final approval for Phase VI-B was granted August 8, 2013. At that time the developer entered into a Subdivision Improvements Agreement to guarantee that all remaining improvements would be completed by Nov. 30, 2013; however, only of portion of the improvements have been completed. The current Letter of Credit in the amount of \$633,611.25 will expire on December 31, 2013. Dan Chovanak, on behalf of Northstar Development, was requesting a 1-yr extension of the SIA to Nov. 30, 2014, and that the extension be granted without him having to provide a new Irrevocable Letter of Credit in the amount of \$593,310 that will expire on Dec. 31, 2014. As part of that request, Mr. Chovanak submitted an extension request application for, a certification letter from GreatWest Engineering, Inc. regarding the internal road network for Phase VI-B, an updated engineer's estimate that was used in calculating the new amount of the new financial guarantee, and a commitment letter from Farmer's State Bank assuring the County that a new Irrevocable Letter of Credit would be provided to the County once all signatures had been obtained. If the Commission grants the extension to Nov. 30, 2014, the attached Amended Agreement would require signatures, also. County Public Works had also letters concurring with the certification of the internal road network within Phase VI-B, and a statement of agreement with the updated cost estimates provided by the developer. Staff provided three options for Commission action.

Dan Chovanak, North Star Development, Inc. confirmed the new Letter of Credit would be issued this week once he obtained partner signatures. Bonding would cover the off-site improvements; all of the internal roads and improvements had been made with exception of chip-sealing Phase VI-B which was just paved this fall. The only remaining issue was turn lanes on Montana Avenue that will be addressed next year.

Commissioner Hunthausen referred to the property in the center of the subdivision that was indicated as parkland, noting it had originally been intended for school property.

Dan Chovanak confirmed the ground as deeded to the County in August when the Final Plat for Phase VI-B was filed; the issue was now between the County and the School District.

No public comment was received.

Commissioner Hunthausen moved approval of the Subdivision Improvements Agreement Completion Date Extension and Updated Financial Guarantee for the Northstar P.U.D. Phase VI-B contingent on receiving updated Letter of Credit for the \$593,310 by December 24, 2013.

Commissioner Good Geise seconded the motion. The motion carried 3-0.

Proposed Special Zoning District No. 49 (Valley View Heights Planning and Zoning District). (Planner: Lindsay A. Morgan) Lewis and Clark County received a petition to create boundaries for a proposed zoning district to be located north of Fantasy Road, east of Collins Drive, south of Snowdrift Road, and west of Ferry Drive in the NE Helena Valley.

Lindsay Morgan, Planner, presented the Staff Report on the Proposed Special Zoning District No. 49 (Valley View Heights Planning and Zoning District). Real property owners representing approximately 61 percent of the landowners have petitioned the Commission to create a landowner initiated or Part I Special Zoning District No. 49 (Valley View Heights Planning and Zoning District). The affected area is approximately 640 acres in size. The southern boundary follows Fantasy Road; the western boundary follows Collins Drive; the northern boundary follows Snowdrift Road; the eastern boundary follows Ferry Drive. The petition included a proposed statement of intent and proposed permitted uses. The purpose of the district is to accommodate and protect the use of low-density, single-family dwelling units and associated agricultural land uses to promote groundwater protection and conservation, and preserve the rural, residential atmosphere of the area, while enhancing the aesthetic character, public health, safety and welfare and property values of the area. Proposed permitted uses included only single-family homes on 20-acre minimum lot sizes with only one home per lot, associated agricultural pursuits and accessory uses that are necessary to the use, operation and maintenance of the permitted uses, such as but not limited to the following: private garages, corrals, barns, stables and/or other similar necessary structures. Establishing a Part I Zoning District was a 3-step process. Step 1 was creation of the district's boundaries. Step 2 was the adoption of the district's neighborhood plan or development pattern. Step 3 was adoption of the district's regulations. Each step required a review and decision by either the Planning and Zoning Commission, or both. The final zoning regulations would be determined per the results of an analysis by County Staff and the preparation of a neighborhood plan and recommended development pattern. Recent Supreme Court decisions had established that only the County Commissioners have legislative authority to enact zoning regulations and that regulations must be based on the adopted Growth Policy. Public input would be received and considered in each of the three steps. Today was a public meeting regarding the creation of the district's boundaries, followed by setting a date for decision on whether or not to create the district. If the Commission determined to create the district, a 30-day protest period would begin. The protest process was outlined.

Public comment –

Lucy St. Onge, 2275 Snowdrift Road, Helena, expressed her desire to opt out of the district.

Thea Spurline, 2323 Snow Drift Road, Helena, supported formation of the district in an effort to retain the rural, residential environment.

Staci Stope, 2224 Tea Road, Helena, supported formation of the district.

Bob Utick, 117 N. Morton in East Helena, opposed formation of the district, stating he considered it a kind of discriminatory spot zoning. Restrictive covenants were placed on the property in 1991 after he and his father purchased the land from the Lowe family, prior to selling any of the parcels, restricting division into no smaller than 5-acre parcels. He was presently attempting to divide a parcel.

Clark Canevaro, 2576 Fantasy Road, Helena, purchased property at the corner of Fantasy and Ferry Drive with the intention of subdividing it and giving it to their children as an inheritance. This proposal would prevent that, and was unfair based on the covenants that were extended at the time of purchase. He opposed the district.

Joyce Evans, 2276 Tea Road, Helena, stated the district would not prevent families from subdividing and gifting land as an inheritance; the practice was provided for through a variance request.

Clinton Cazier, 2575 Snowdrift, Helena, landowner at the corner of Snow Drift and Ferry, supported the district based on the lack of available groundwater. His water table had dropped over the years; subdivision would further deplete the available groundwater.

The public comment period was closed.

Lindsay Morgan stated that if the Commission made a decision today to create the boundaries of the district, a 30-day protest period would run through 5:00 p.m. Jan. 16, 2014. If the decision were delayed to Thursday, the protest period would end at 5:00 p.m. on January 18, 2014. A preliminarily approved subdivision in the proposed district would be grandfathered.

Commissioner Hunthausen moved to render a decision on the Proposed Special Zoning District No. 49 (Valley View Heights Planning and Zoning District) on Thursday, Dec. 19, 2013, at the regularly scheduled meeting, as presented.

Commissioner Good Geise seconded the motion. The motion carried 3-0.

Public Hearing. Proposed Subsequent Minor Subdivision to be known as the Amended Plat of Lot 2B - Bleskin Subdivision. (Applicant: Monte and Julie Weeden) (Planner: Lindsay A. Morgan) The Commissioners will consider an amendment to the plat (removal of 400-foot building line setback from Holter Lake) and the removal of four restrictive covenants (Nos. 4, 7, 9, and 15) placed on the property located west of and adjacent to Beartooth Road, directly across from the entrance to Old Doc Road. In addition, the Commissioners will consider three variance requests from the requirements of Chapter XI.C.5. Building sites are prohibited on slopes greater than 30%; Chapter XI.W.3.a.i. Structures and uses prohibited under the setback and buffer standards: any type of building and accessory structure related to residential uses; and Chapter XI.W.3c. The buffer is required on 75% of the linear footage along the affected waterbody. In addition, the Commissioners will receive any associated public testimony related to the proposed amendments to the plat and covenants, and all three variance requests.

Commissioner Murray acknowledged receipt of a letter from the applicant requesting this item be tabled until Febr. 11, 2014, and that the approval deadline be extended until Feb. 25, 2014.

Lindsay Morgan acknowledged receipt of a letter from Montana Fish, Wildlife and Parks received yesterday afternoon and provided as a handout this morning.

No public comment was received.

Commissioner Hunthausen moved to continue the hearing for the Amended Plat of Lot 2B-Bleskin Subdivision until Tuesday, February 11, 2014, and to suspend the review period until February 25, 2014.

Commissioner Good Geise seconded the motion. The motion carried 3-0.

Board Appointment: (Eric Bryson)

a. Canyon Creek Volunteer Fire District

Commissioner Hunthausen moved to appoint Robert W. Keim to fill the vacancy until the next regular election, May 2014.

Commissioner Murray seconded the motion. The motion carried 3-0.

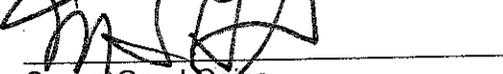
Public comment on any public matter within the jurisdiction of the Commission that is not on the agenda above.

There was no other business and the meeting adjourned at 9:49 a.m.

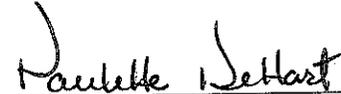
LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Michael A. Murray, Chairman


Andy Hunthausen


Susan Good Geise

ATTEST:


Paulette DeHart, Clerk of the Board