

**PUBLIC MEETING
MAY 14, 2013
MINUTES**

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, May 14, 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 was present. Others attending all or a portion of the meeting included Eric Bryson, Nancy Everson, Tammy Potter, Kathy Moore, Frank Rives, Pat McKelvey, David Brandon, Ryan Casne, Bob Abelin, Randi Triem, Al Knauber and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge

Consent Action Items. (Eric Bryson)

a. Public Meeting Minutes for January 15, 17, 22 & 24, 2013. (Rita Cortright)

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

No public comment was received.

Commissioner Hunthausen moved approval of Consent Action Item 2.a. Commissioner Murray seconded. The motion carried 2-0.

Resolution No. 2013-43 Relating to a Project on Behalf of Carroll College and the Issuance of Revenue Bonds to Finance the Costs of a Campus Housing Project and Revenue Bonds to Refund Outstanding Revenue Bonds Payable by Carroll College Under Montana Code Annotated, Title 90, Chapter 5, Part 1, as Amended; Approving the Project and Authorizing the Issuance of Bonds Therefor and of the Refunding Bonds. (Nancy Everson)

Nancy Everson, Director of Finance, presented the Resolution and explained this was the next step in the Commission's sponsorship of tax-exempt bond issuance for Carroll College for the construction of their new student housing and for the refunding of their bonds. The Commission granted initial approval April 16th, followed by a public hearing on May 9. The County had no obligation for repayment of the bonds in the event that Carroll College defaulted.

Public hearing –

No public comment was received.

Commissioner Hunthausen moved approval of Resolution 2013-43, as presented. Commissioner Murray seconded the motion. The motion carried 2-0.

Subgrant Application to Montana Board of Crime Control by Lewis & Clark County Sheriff's Office for in the Amount of \$3,622.00. (Tammy Potter) The Commissioners will consider the application providing funding for 72 hours of deputy sheriff's time in enforcing underage drinking laws during the months of July, August and Sept. 2013.

Tammy Potter, Finance Officer, Sheriff's Office, reported on the Subgrant Application

No public comment was received.

Commissioner Hunthausen moved approval of the Subgrant Application to Montana Board of Crime Control by Lewis & Clark County Sheriff's Office in the Amount of \$3,622.00, as presented. Commissioner Murray seconded the motion. The motion carried 2-0.

Cooperative Law Enforcement Annual Operating Plan & Financial Plan Between L&C County Sheriff's Dept. and the USDA, Forest Service, Helena & Lewis and Clark National Forests. (Tammy Potter) The Commissioners will consider the 2013 Annual Operating and Financial Plan in the amount of \$13,500 for deputies to work overtime shifts patrolling Forest Service campgrounds. Grant period: 5/17/13 – 12/31/13.

Tammy Potter, Finance Officer, Sheriff's Office, reported on the Annual Operating Plan.

No public comment was received.

Commissioner Hunthausen moved approval of the Cooperative Law Enforcement Annual Operating Plan and Financial Plan Between L&C County Sheriff's Dept. and the U.S. Dept. of Agriculture, Forest Service and the Helena & Lewis & Clark National Forests, as presented. Commissioner Murray seconded the motion. The motion carried 2-0.

Contract Between Lewis & Clark County and Montana Dept. of Environmental Quality. (Kathy Moore) The Commissioners will consider the contract for PM2.5 Mitigation and Education in the amount of \$50,000 for the period June 16, 2013 to June 30, 2014.

Kathy Moore, Administrator, WQPD, requested tabling the contract to next week to allow for language modifications.

Commissioner Hunthausen moved to table the Contract Between Lewis & Clark County and the Montana Dept. of Environmental Quality until Thursday, May 16 at the regularly scheduled meeting. Commissioner Murray seconded the motion. The motion carried 2-0.

Proposed Major Subdivision to be known as the Amended Lot 1 & 2 Paradise Valley Subdivision. (Applicant: W. Wayne Wilson) (Planner: Frank W. Rives) The Commissioners will consider a proposed 7-lot Subdivision located north of Norris Road and east of and adjacent to Applegate Drive, and a variance request from the requirements of Chapter: XI.H.3.c. to utilize an engineer's estimate for Applegate Drive instead of a PER to determine the cost to maintain the Level of Service directly attributable to 2 of the 7 lots within the Subdivision that will access directly onto Applegate Drive. In addition, the Commissioners will receive any associated public comment related to the proposed Subdivision and variance request.

Frank Rives, Planner, presented the April 5, 2013, Staff Report for the Amended Plat of Lots 1 & 2 Paradise Valley Subdivision. A vicinity map and the Preliminary Plat were viewed. The applicant proposed dividing the 105-acre tract into 7 lots; Lot 2A, about 79.5 acres was utilized for agricultural purposes and contained two dwelling, a residence and a rental that were part of the original farmstead. Two lots were under 5 acres; four lots were five acres in size, all six lots were intended for single-family dwellings.

The applicant requested a variance from Ch. XI.H.3.c. in order to utilize an engineer's estimate and a Preliminary Engineering Report on Norris Road in lieu of providing a new PER on Applegate Drive to determine the cost to maintain the level of service directly attributable to two of the seven lots within the subdivision. Traffic impacts and calculations for the percentages of

impact on the various sections of roads were reviewed. The segment of Norris Road west of Applegate Drive is serviced through the Applegate RID and the segment of Norris Road within Crestwood Green Estates is serviced by the Crestwood Green RID. The segment of Norris Road between Applegate Drive and Crestwood Green Estates Subdivision is not serviced by either RID. The process to include the segment of Norris Road between Applegate Drive and Crestwood Green Estates Subdivision in one or the other RID may not be possible as the current policy requires a petition signed by 60 percent of the property owners in the district. Statute requires a protest period that prohibits action if more than 50 percent of property owners protest out. The County will attempt to include all of Norris Road into the Applegate RID this winter. Norris Road east of Applegate Drive and roads in Crestwood Green Estates Subdivision have a posted load limit of 7 tons per axle. Overweight Permits would be required from County Public Works Dept. to allow overweight vehicles to travel on those roads. Photos of damage to the road shoulder were viewed.

Regarding the variance request, Ch. XI.J.3.a.1. states, "adjacent roads that are impacted by the subdivision" must be included in the subdivision's traffic impact corridor in order to assess if the subdivider will be required to contribute a percentage of the impact on the road caused by the proposed subdivision. Applegate Drive is an adjacent impacted road. Proposed Lots 2A and 1B will directly access Applegate Drive. The Traffic Impact Study estimated 5% of traffic leaving the subdivision would travel north on Applegate Drive. Most traffic from Lots 1B and 2A could use Applegate Drive to access Norris Road to travel either on Green Meadow or North Montana Ave. The four criteria for considering approval or denial of the variance were reviewed.

The applicant proposed paying cash-in-lieu in the amount of \$1,059.45 in place of dedicating parkland, which was agreed to by the Park Board. During the April 10, 2013 Park Board meeting they expressed concern that the applicant was avoiding the parkland requirement for proposed Lots 2B-2E by making the lots 5.007 acres in size. There was not another park near the subdivision, and no park in Crestwood Green; Sierra park would possibly be the closest.

Regarding fire protection, the subdivision is within the West Valley Fire District, and located 2.67 miles from Station 1 and 4.11 miles from Station 2. The Applicant proposed utilizing an existing fire protection well located at the intersection of Applegate Drive and Norris Road. A class II subdivision must provide year-round accessible firefighting water source capable of delivering at least 250 gpm, at 20 psi for two hours. Fire protection will be provided through an agreement with the Crestwood Green Estates Subdivision Fire Protection System and David Brandon, its owner and is capable of delivering 500 gpm at 20 psi for two hours, and needed to be referenced in Condition 6.

Mr. Rives referenced his memo of May 8, 2013, containing revised language for Condition of Approval 5 and Condition 11.e. and a revision in the Findings and Conclusions 3. Impacts on Local Services. He noted an oversight in that he had not addressed the applicant's interest in providing a financial guarantee for funding the percentage of impact and proposed Condition 5.c stating the applicant could pay a lump sum at final plat, or provide an acceptable financial guarantee.

Dean Retz. 155 All Sports Court addressed the fire protection by saying it was 100 percent over the standard. He referenced the Park Board's concern that lot sizes under 5 acres was an attempt to avoid parkland requirements.

Ryan Casne, the applicant's civil engineer, addressed the easement shown on Lot 2A, a 100-foot public utility easement that would go away as part of the final plat; the boundary between former Lot 1 and Lot 2 would be eliminated so the easement would no longer serve any

purpose. He was in agreement with Condition 11.e. that stated, "Notice is hereby given that Lot 1A is subject to a "no-access" restriction along the western property line prohibiting access to Applegate Drive." Regarding Condition 5.c., the applicant was requesting to be allowed to provide a financial guarantee for up to three years on a pro rata share of off-site improvement costs. Previous projects where this was allowed were cited. Mr. Casne addressed the Variance Request for Norris Road, noting Lewis and Clark County Public Works did issue a letter to them on April 5, 2013, supporting the variance request.

Bob Abelin fielded questions related to the calculation of ADTs. He cited the County's 2008 "Origin and Destination Study," where traffic counts going in and out of different subdivisions throughout the County were taken. Ranchview Estates was the closest one to this project and was utilized by Mr. Abelin as a representative to base conclusions on, as opposed to using the 9.57 ADT.

Eric Bryson asked Mr. Abelin a series of questions related to his professional qualifications; how the ITE came up with the 9.75 rate, the sampling size, and actual onsite evaluations to arrive at the 9.75 ADT. Bob Abelin did not know the exact number; however, the sample size was large, based on thousands of studies from all over the country, and mostly from urban areas. He was not aware of a rural ITE number. His suggested rate of 7.1 trips for the subdivision was based on a comparison of a like subdivision.

Ryan Casne, the applicant's engineer, stated that review agencies, such as DOT, DEQ and EPA, always preferred numbers based on local data, rather than a number out of a textbook.

David Brandon, David Brandon, 6705 Applegate, stated Wayne Wilson's intention to retain the acreage in Lot 2A as agricultural. He owns the fire protection well and surrounding land; the fire hydrant has been installed. An easement had been drafted months ago, forwarded to the County Attorney's Office, and subsequently lost. A replacement easement was provided, but not acted on to date. Mr. Bryson was directed to follow up with the County Attorney's Office regarding the easement. Regarding the parkland requirement, Mr. Brandon confirmed Sierra Park was the closest to the proposed subdivision; however BLM land was .5 miles distant. Crestwood Green Estates has a walking trail around the entire development. He saw no problem with dedicating the short section of Norris Road not currently in an RID to the County. Mr. Brandon requested credit for the \$8,810 paid, or 34 percent pro rata share of impact paid on Lots 3, 4 and 5 of Paradise Valley, as the ADT was projected between 90-100; the average is actually 230 on Norris Road east of Applegate. Lastly, he addressed the mention of Public Works denying or removing approaches due to over-weight trucks. The \$250 of damage to the road edge was done building the approach and would be repaired.

Commissioner Murray stated when an RID was proposed for Crestwood Mr. Brandon opposed it and said he would chip-seal all of the hard-surface roads, which he claimed hadn't been done. Mr. Brandon took issue with the statement, stating the reason for the deterioration of the roadway was due to greatly increased thru-traffic; Crestwood became the access for people taking their children to Rossiter School.

No public comment was received.

Dean Retz, 155 All Sports Court, re-addressed the 9.57 ADT industry standard, an estimate based on nationwide data, stating he preferred using local data.

Commissioner Hunthausen moved to consider the information presented today and render a decision on the Preliminary Plat of the proposed subdivision on May 28th at the regularly

scheduled meeting. Commissioner Murray seconded the motion. The motion carried 2-0.

Break – 10 minutes.

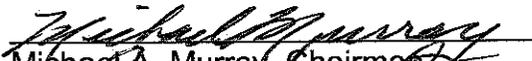
Presentation on Tri-County FireSafe Working Group Participation in the Wildfire Awareness Week, June 3-9, 2013. (Pat McKelvey)

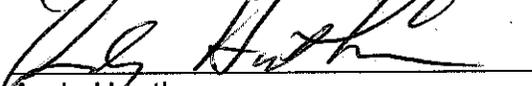
Pat McKelvey, Project Coordinator, announced June 3-9, 2013 as Wildland Fire Awareness Week. All members of the Tri-County FireSafe Working Group planned on participating in the activities: the June 3rd Governor's Annual Briefing by DNRC; reading of a proclamation and brief meeting with the BOCC on June 4; and a June 4, 6:30 p.m. presentation at the Helena Middle School by the fire marshal and the mitigation person from the Colorado Springs Fire Dept. on the Waldo Canyon Fire that burned 345 homes. They will address similarities between the Waldo Canyon Fire and the potential for a wildfire in the South Hills of Helena.

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 and the meeting adjourned at 10:56 a.m.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Michael A. Murray, Chairman


Andy Hunthausen

(Vacant)

ATTEST:


Paulette DeHart, Clerk of the Board