

**PUBLIC MEETING  
JULY 16, 2013  
MINUTES**

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, July 16, 2013, at 9 a.m. in Commission Chambers Room 330 of the City-County Building, 316 North Park Avenue, Helena, Montana.

Commissioner 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 Nancy Everson, George Theborge, Frank Rives, Lindsay Morgan, Audra Zacherl, Greg McNally, Kathy Moore, Frank Rives, Drenda Niemann, Al Knauber, Doug Williams, Steve Netschert, Candace Payne, Sharon Haugen, Jack Walsh, Bryan Johnson, Andrea Silverman, Andy Bauer, Misty Edwards and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson) (Nancy Everson)

a. Public Meeting Minutes for March 12, 19, 21, 26, 28, April 2, 4 and 9, 2013. (Rita Cortright)

Nancy Everson reported on the consent action items and recommended approval.

No public comment was received.

Commissioner Good Geise moved approval of the Public Meeting Minutes for March 12, 19, 21, 26, 28, April 2, 4 and 9, 2013, as submitted. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Bid Award for Construction of the 2013 Chip Seal Surfacing of County Roads and Rural Improvement Maintenance Districts. (Audra Zacherl) (Bids opened 7/9/13)

Audra Zacherl, Finance Coordinator, reported on the selection committee' and Staff's recommendation to award the contract to the low bidder, Pavement Maintenance Solutions of Columbia Falls, Montana, for a total bid amount of \$694,658.36 and requested authorization for the Chair to sign all applicable contract documents.

No public comment was received.

Commissioner Good Geise moved to accept the Bid Award for Construction of the 2013 Chip Seal Surfacing of County Roads and Rural Improvement Maintenance Districts as recommended by Staff in the amount of \$694,658.36 and authorize the Chair to sign all applicable contract documents. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Interlocal Agreement Between the City of Helena and Lewis & Clark County for 2013 Byrne Justice Assistance Grant (JAG) Program Award. (Tammy Potter) (Nancy Everson) The Commissioners will consider the Byrne Justice Assistance Grant Award in the amount of \$35,239; the County share is \$17,619.50 and would be used to cover approx. 33 percent of the regular salary costs (excluding benefits) of a Missouri River Drug Task Force deputy covering the period Oct. 1, 2013 - Sept. 30, 2017.



Nancy Everson, Director of Finance, reported on the Interlocal Agreement Between the City of Helena and Lewis & Clark County. The City received the \$35,000 JAG Grant and shares funding with the County through this Interlocal Agreement. The County uses the funding to cover part of the cost of a deputy and admin. assistant with the Missouri River Drug Task Force.

No public comment was received.

Commissioner Hunthausen moved approval of the Agreement Between the City and County in regard to the JAG Grant, as presented. Commissioner Good Geise seconded the motion. The motion carried 3-0.

Contract #514020 Between Lewis & Clark County and MT Dept. of Environmental Quality. (Kathy Moore) The Commissioners will consider the contract renewal covering review of certain water supplies, wastewater systems, solid waste disposal and stormwater systems to determine compliance with the Sanitation in Subdivisions Act for new subdivision applicants for the period July 1, 2013 – June 30, 2015.

Kathy Moore, Division Administrator, reported on the contract between DEQ and the Environmental Division of the Health Department for the review of subdivisions, specifically for sanitary conditions, water, wastewater, stormwater and solid waste removal. This was continuation of a long-standing contract. Staff requested approval of the contract.

Commissioner Good Geise moved approval of Contract #514020 Between Lewis & Clark County and Mt Dept. of Environmental Quality. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Contract for Services Between Lewis & Clark City-County Health Dept. and Helena Public School Dist. #1. (Drenda Niemann) The Commissioners will consider the contract funded via the Safe School Healthy Students grant to deliver the evidence-based home visiting model, Parents as Teachers, for the period July 1, 2013 – June 30, 2014. The Health Dept. will be compensated at a rate of \$156,091 for PAT implementation and an additional \$3,963 will be available to families to assist with service provider fees for assessment for a total of \$160,054.

Drenda Niemann, Division Administrator, reported on the contract funded by the Safe Schools/Healthy Students Grant. A 5-year extension of the project had been granted to continue delivering evidence-based home visiting services with the Parents as Teachers program for one year, through June 30, 2014, in the amount of \$156,091.00. Additional funding of \$3,963.00 was also provided for additional assessments, if needed.

No public comment was received.

Commissioner Hunthausen moved approval of the Contract for Services Between Lewis & Clark County Health Dept. and the Helena Public Schools, as presented. Commissioner Good Geise seconded the motion. The motion carried 3-0.

Proposed Road Abandonment of a Segment of Missoula Avenue in Blocks 16, 17 and 21 and the East Half of Block 20 of the Boyce Addition. (Applicant: Ruedebusch Dev. & Construction Company) (Planner: Frank Rives) A petition has been received from the adjacent landowners to vacate and abandon a portion of Missoula Avenue, located adjacent to Blocks 16, 17, 20 and 20 of the Boyce Addition, approximately 705 feet long and 70 feet wide. The property is described as the SW ¼ of Sec. 28, 10N, R3W, P.M.M., Lewis & Clark County. Other streets in the area have been similarly closed and abandoned.

Frank Rives, Planner, presented the Staff Report on the applicant's petition to vacate and abandon a portion of unconstructed Missoula Avenue in the Boyce Addition to allow construction of a Federal Express ground facility. A vicinity map was viewed indicating the Helena City Limits. The east half of Block 20 had previously gone through pre-zoning for Commercial-Light Manufacturing. The proposed plat was viewed indicating the abandonment and aggregation of lots, and the creation of Lot R1, that would provide access for Lot 21A.

Candace Payne, 24 W. 6<sup>th</sup> Ave., Helena, Montana, the applicant's representative, addressed the Commission in the absence of Jeff Larson, the project engineer, who was unable to attend. She stated the applicant, Ruedebusch, agreed to all the Conditions of Approval drafted by Staff. The abandonment was supported by all adjacent landowners. She offered to contact Mr. Larson via phone if there were technical questions, and requested the Commission not table the item.

Steve Netschert, 30 E. Lyndale, Helena, Montana, spoke on behalf of the owner, Ed Maronick, and urged support of the request, stating it was expected to spur development in the area for commercial use. He clarified that Blaine Street, between Block 15 and 16, would be constructed and paved to City standards, and utilities would be extended through the area.

Public comment –

Doug Williams, owner of a portion of Block 20 just east of D&D RV, supported abandonment of Blaine Street in front of his property and Block 17, which he thought had been done in the 1960's. He supported the Fed-Ex facility, but expressed concern regarding the amount of traffic on Billings Avenue.

Commissioner Hunthausen responded the County was planning to improve Billings to California Street when future funding was available, making California the main route in place of the Stanley access through private property. Possibly this summer the Centennial Trail route would come up what is California Street.

Commissioner Murray asked Doug Williams to meet with Frank Rives following the meeting to discuss the procedure for closing the portion he was recommending.

Commissioner Hunthausen stated a site visit had been conducted. Public Works, the City and utility companies provided comment and supported approval of the proposal.

Commissioner Hunthausen moved approval of the proposed road abandonment of a segment of Missoula Avenue in Block 16, 17 and 21 and the east half of Block 20 of the Boyce Addition, as presented. Commissioner Good Geise seconded the motion. The motion carried 3-0.

Public Hearing. Proposed Subsequent Minor Subdivision to be known as Amended Plat of Lot 14C – Lowe Tracts Lot 14 Minor Subdivision. (Applicant: Bryan E. Johnson) (Planner: Greg McNally) Proposal to amend a platted subdivision lot to remove the "no vehicular access" restriction along a portion of the west property boundary of a lot so the Applicant can get an existing second approach onto Pioneer Park Drive permitted. The lot is located approx. ½ mile south of the intersection of York Road and Pioneer Park Drive, east of and adjacent to Pioneer Park Drive. The applicant also requested a variance from County Subd. Regulations Ch. XI.1.2, Appendix J.3.5, which states that no lot in a subdivision shall have more than one approach.

Greg McNally, Planner, presented the applicant's request to amend his plat, removing 30 feet of

"no vehicular access" restriction on the property's western boundary, to allow for permitting of the existing driveway approach to his lot from Pioneer Park Drive. Due to an existing shared approach, the applicant requested a variance from Ch. XI.2, and Appendix J.3.5. The property is developed with one single-family dwelling and associated structures, and is served by individual well and individual on-site wastewater treatment system and utilities. Today's public hearing had been appropriately noticed and letters were sent to adjacent property owners and appropriate agencies. No public comments had been received as of July 10.

Lowe Tracts Lot 14 Minor Subdivision was preliminarily approved in 1995 with 12 conditions as a 4-lot subdivision, each for one single-family dwelling. At that time, the Commission requested accesses be combined where possible to reduce the number of accesses onto the main road. In response, Doug Sparrow proposed three accesses for four lots. The Commission approved the 4-lot subdivision with conditions, as recommended by Planning Staff, and added a condition that access for Lots 14B and 14C be shared. In 1999, the applicant installed a second approach with a culvert. Later that summer, he submitted an approach permit for that installation, which was reviewed by County Road and Bridge Dept.; however, the permit was not issued. There was no record of any additional enforcement or request to remove the second approach. County Planning was unaware of any unmitigated impacts resulting from the installation of the approach in 1999. Photos of the property and plat were viewed.

Bryan Johnson, 383 Springfield Drive, Helena, Montana, stated the access was installed to allow for more efficient use of the property.

Public hearing –

No public comment was received.

Commissioner Hunthausen moved approval of the Variance request to remove the "no vehicular access" to Pioneer Park Drive from Lot 14C, as presented. Commissioner Good Geise seconded the motion. He stated the variance request met the subdivision regulation standards for a variance from Ch. II. of the Subdivision Regulations.

The motion carried 2-1 Commissioner Murray voted "no."

Commissioner Hunthausen moved approval of the proposed Subsequent Minor Subdivision to be known as Amended Plat of Lot 14C - Lowe Tracts Lot 14 Minor Subdivision. Commissioner Good Geise seconded the motion. The motion carried 3-0.

Public Hearing. York Gulch Land Acquisition. (Planner: Lindsay A. Morgan) A request for funding in the amount of \$205,000 from the Open Lands Bond Fund to aid in the funding of a conservation project in which 14 contiguous mining claims in the York Gulch area, which total 286 acres in size, can be conveyed from the Montana Fish, Wildlife, and Parks Foundation to the Helena National Forest. The project site is located approximately 18 miles northeast of the City of Helena and two miles east of York on Black Bear Road. The Commissioners will consider the request and open a 30-day comment period to close August 15, 2013.

Lindsay Morgan, Planner, stated following Prickly Pear Land Trust's presentation today, the Commission would open a 30-day comment period ending August 15 at 5:00 p.m. The decision date was Tuesday, August 27 at 9:00 a.m. during the public meeting in the Chambers. The property is located 18 miles northeast of the City of Helena, 2 miles east of York on Black Bear Road. The funding request from Lewis & Clark County was \$205,000; the property's estimated value was \$660,000. The project would protect 14 contiguous mining claims in the York Gulch

area totaling 284 acres in size, was currently owned by the Montana Fish, Wildlife & Parks Foundation, and was surrounded almost entirely by the Helena National Forest. The proposal would acquire the acreage from the Foundation so it could be conveyed to the Helena National Forest. The property is forested and undeveloped; however it was mined and subsequently reclaimed in 2009. Black Bear Road runs through the bottom of the site; however, the property's title insurance stated there was a lack of access to the site. The Forest Service and FWP were working to address the access issue.

Staff found the proposal met all minimum requirements of the Open Lands application and also appeared to meet 4 of the 6 objectives listed in the bond measure: 1) Protecting habitat for fish and wildlife; 2) Providing opportunities for outdoor recreation; 3) Protecting water resources and water quality; and 4) Preserving open lands and natural areas. The Citizens Advisory Committee reviewed this proposal and in a vote of 8-1, with 1 abstention, voted to recommend the project be a priority for funding and to proceed into the due diligence phase, which is the second and final phase of the Open Lands process, with the condition the road access issues on Black Bear Road be resolved before they get final approval.

Commissioner Good Geise asked about the potential liability resulting from past mining activities on the property.

Commissioner Murray questioned the logic of spending taxpayers' money to enable one public trust to transfer to another public trust.

Lindsay Morgan stated that Fish, Wildlife and Parks differed from the FWP Foundation. The property was donated to the Foundation, who in turn, would like to have the lands in the ownership of the Helena National Forest.

George Theborge, Director of Planning, stated one of the actions the Commission would take would be to determine whether to move forward to a "due diligence" phase of the process. During that phase, items such as potential liability and appropriate title would be addressed by County Legal Staff. The Staff Report indicated that the Staff's review determined the project would qualify for the funding; funding was the Commission's decision.

Andrea Silverman, PPLT, confirmed the property was gifted in 2005 to the FWP Foundation, a private non-profit organization loosely affiliated with MT FWP, who works to implement wildlife projects across the state. The Foundation had a limited budget and their focus was not that of a land conservation organization. Their board of director felt a fiduciary responsibility to get some return from this 2005 donation, and Director, George Bettas, who was unavailable today, could answer the Commission's questions. A slide showing the entire funding scenario was viewed and discussed. The appraised value was \$660,000. An application had been submitted for Federal Land & Water Conservation Fund funding in the amount of \$250,000. County Open Space Bond funds in the amount of \$205,000 were requested. The FWP Foundation would donate \$130,000 and \$50,000 had been secured from the Montana Fish and Wildlife Conservation Trust, as well as \$25,000 from the Rocky Mountain Elk Foundation. Public access was currently allowed and enjoyed by the public in the form of hiking, mountain biking, horseback riding and some ATV use. A map of the area was viewed. A list of significant wildlife sightings was read. PPLT's stated desire was to prevent wildlife habitat fragmentation through future subdivision and development. The land was heavily forested and highly susceptible to wildfire. Extensive mining had taken place since the 1800's. A cooperative effort between the Lewis & Clark Conservation District and Montana DEQ resulted in a 2009 cleanup to National Forest Standards. Photos of reclaimed mines on the property were displayed and Ms. Silverman was not aware of any contamination issues on the property. During due diligence an

environmental report would be required that would address the issue. There were two ponds, seasonal streams and springs noted on the property. If the project was not approved, the possibility remained that the Foundation could be forced to sell the 268-acre parcel to a private landowner who could then develop the property.

Commissioner Hunthausen stated the Open Space Bond was intended to invest public dollars in conservation efforts, regardless of the intended ownership, as long as the project met the criteria of the Open Space Bond measure.

Public comment –

Jeanne Holmgren, USFS, thanked the Commission for considering the application. She noted the area was already 14 separate parcels and could be sold off without further review by the Commission. The distinction was noted that FWP was funded through general fund; the Foundation raised funds through private donation.

Jack Walsh, 2024 8<sup>th</sup> Ave, Helena, Montana, expressed concerns with the amount lands already under Federal jurisdiction and did not support spending tax dollars to purchase more lands for transfer to the Forest Service. He questioned spending tax dollars to enhance access that appeared to already exist and was concerned with the goal of preventing subdivision and development. He felt that the County and Helena area already had more parkland than could be supported by the taxpayers and questioned the transfer of land from private to public holdings that would require taxpayer funds for continued maintenance. He suggested the Foundation return the gifted lands to the donor or give it to another entity without involving taxpayer funds.

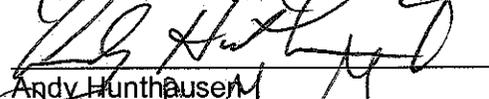
Commissioner Hunthausen moved to open a 30-day comment period on the York Gulch land acquisition proposal ending August 15, 2013, at 5 p.m. and taking up the issue at the August 27<sup>th</sup> regularly scheduled meeting. Commissioner Good Geise seconded the motion. The motion carried 3-0.

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 and the meeting adjourned at 10:23 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