

**PUBLIC MEETING
JULY 25, 2013
MINUTES**

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, July 25, 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, Paul Spengler, Christal Ness, Lindsay Morgan, Rick Hill, Dean Retz, Pat Cirillo, Paula Jacques, Michael and Shona Ellison, Katie Jerstad, George Donnelly, Al Knauber, Jack Walsh and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson)

a. Resolution 2013-71 Declaring County Property Surplus Property. (Amy Reeves)

Eric Bryson reported on the consent action items and recommended approval.

No public comment was received.

Commissioner Good Geise moved adoption of Consent Action Item Resolution 2013-71 Declaring County Property Surplus Property. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Grant Award Modification to Grant No. EMW-2012-EP-00057-S01 Between MT Dept. of Military Affairs, Disaster & Emergency Services and L&C County. (Paul Spengler) The Commissioners will consider the budget increase in the amount of \$12,200, and the extension of the grant period to Sept. 30, 2013.

Paul Spengler, DES Coordinator, presented the Grant Award Modification in the amount of \$12,200.00 and an extension of the grant period from July 1 to Sept. 30, 2013. Funding was through the Dept. of Homeland Security for State Disaster and Emergency Services to defray the cost of the Disaster and Emergency Services Program; specifically, up to half of the coordinator's salary and the administrative costs of the office. The additional funding was unexpected; the DES budget would remain unchanged.

No public comment was received.

Commissioner Hunthausen moved approval of the Grant Award Modification Between Montana Dept. of Military Affairs, Disaster & Emergency Services and Lewis & Clark County, as presented. Commissioner Good Geise seconded the motion. The motion carried 3-0.

Public Hearing. Resolution 2013-62 Levying and Assessing a Tax Upon All Benefitted Property Within the Panoramic Meadows Rural Improvement District No. 2013-1. (Carrie Severson) (Christal Ness) (Tabled from 6/18/13)

Christal Ness, Permit Coordinator, in Carrie Severson's absence, noted this item was continued from the June 18th agenda, with the directive that Staff meet with Panoramic Meadows



Subdivision homeowners and discuss the particulars of the maintenance district proposed by Resolution 2013-62. Two meetings were held in the interim. The individual items and costs for the maintenance RID were reviewed. The total annual maintenance fee was \$31,311.91, or \$396.35 per lot.

Public comment –

Richard Hill, 3278 Quarterhorse Court, Helena, stated he was objecting to, not protesting, the RID. Many of the residents were surprised by the effort. A needs assessment was not conducted; there was no opportunity for public input into the process. Two neighborhood meetings were held and Ms. Ness attended and represented the County very well. He expressed concerns with variability; other subdivisions' roads were gravel; theirs was required to have chip-seal. The developer indicated this RID was a "done deal" at one of their neighborhood meetings.

David Smith, 3265 Arabian Road, Helena, thanked Christal Ness and Staff for meeting and explain the nuances of the effort. The assessment was hard for fixed-income or retired residents. He addressed the required left-turn lane on Lincoln Road and asked if a traffic count had been conducted on Mountain Heritage Road. There was a full one-mile line of sight traveling east on Lincoln Road ahead of the turn onto Mountain Heritage.

George Donnelly, 3173 Arabian Road, Helena, president of Gable Estate Homeowners Association, noted Gable Estates RID was responsible for upkeep of the asphalt portion of Mountain Heritage Drive, and had paid for crack sealing of Mountain Heritage last year. Seven households in Gable Estates utilize Mountain Heritage Drive. Construction trucks hauling asphalt for Panoramic Meadows Subdivision's roads were traveling over Mountain Heritage Drive and impacting its condition. This was an inequitable situation and he requested the Commission address the issue sooner than later.

Christal Ness reviewed the roads included in the maintenance district, noting the developer has bonded for the left-hand turn lane and the improvements on Mountain Heritage Drive north of the canal.

No additional public comment was received.

Commissioner Good Geise addressed Mr. Hill's comment regarding variability of standards, noting before plans were put in place, extensive work was done that included over 40 factors; there were variable standards due to the complexity of projects. She addressed the question of the RID being a "done deal" and stated this was misinformation; the deal was not done until the Commission voted.

Christal Ness addressed the traffic count question on Lincoln Road, noting the State had traffic counts on all of their roads, and based on the impact of Mountain Heritage, had determined a left-hand turn lane was warranted on Lincoln Road.

Commissioner Hunthausen explained the S-curve road design and left-hand turn lane designs were decisions made by Montana Dept. of Transportation; the County Commission had no jurisdiction.

Commissioner Hunthausen moved approval of Resolution 2013-62. Commissioner Good Geise seconded the motion. The motion carried 3-0.

Public Hearing. Zoning Appeal, Special Zoning District No. 9. (Planner: Lindsay A. Morgan) (Adjoining Landowners: Patrick Cirillo and Paula Jacques) The Commissioners will consider an appeal of a zoning determination made by the Community Development and Planning Office regarding the keeping of horses on property located at and adjacent to 811 and 813 Hiawatha Street in Special Zoning District No. 9.

Lindsay Morgan, Planner, presented the Zoning Appeal for Special Zoning District No. 9 brought by Patrick Cirillo and Paula Jacques. A vicinity map was viewed indicating the Campeau, Ellison and Jacques/Cirillo properties. A chronology of events was presented beginning in June 2011.

On June 27, 2011, the County Attorney's Office made a decision that pet horses could graze on the undeveloped lot, the property to the north of the Ellison's property, as horses did not fall under the use provisions.

On Sept. 22, 2011, the County Commission approved the revision of the regulations allowing for restrictions and prohibitions on the keeping of livestock in Special Zoning District 9. Once adopted, these regulations prohibited the keeping of large livestock, i.e. horses, from that point forward, but grandfathered any existing large livestock within the district so long as the keeping of the large livestock wasn't or didn't become a nuisance or obnoxious.

On August 12, 2012, a formal complaint was received from Pat Cirillo and Paula Jacques regarding: 1) the expansion of a non-conforming use which was the keeping of the horses; 2) the construction of a structure not meeting property line setbacks for animal enclosures; and 3) the keeping of horses being a nuisance.

After reviewing the complaint and conducting a site inspection the Planning Staff prepared a report and concluded there was substantial evidence to indicate existing violations for the expansion for a non-conforming use and of the setbacks for animal enclosures. There did not appear to be convincing evidence of a violation of the nuisance provisions of the District.

The following remedies were developed for the Ellisons to come into compliance: 1) remove the roof, stalls and additional structural framing that did not exist prior to the enactment of the livestock restrictions in Sept. of 2011; or 2) request and receive a variance from the zoning regulations to allow for the expansion of a non-conforming use and reduction in or the removal of setback requirements for animal enclosures; or 3) request and receive an amendment to the text of the regulations to remove or reduce the setback requirements from property boundaries for animal enclosures. A report containing the remedies was sent to the Ellisons on Nov. 12, 2012, and on Dec. 7, 2012, Ellisons met with Planning and Legal Staff regarding an administrative review of the investigation. During that meeting, the Ellisons consented to mitigating the violations by Feb. 16, 2013, by removing all boards, framing and roofing that didn't exist prior to the amendments of the regulations in Sept. 2011. On March 1, Planning Staff conducted a site inspection and determined the Ellison's efforts to mitigate the violations had brought the non-conforming use and structure into substantial compliance with the Zoning Regulations. On June 25, 2013, Paula Jacques and Pat Cirillo submitted a formal appeal regarding the zoning determinations made by the Community Development and Planning Office.

On July 24, 2013, the Planning and Zoning Commission upheld the Staff's determination regarding the Ellison's efforts to mitigate the violations related to the expansion of a non-conforming use and structures, and structures not meeting setback requirements relating to the keeping of animals. The Planning and Zoning Commission determined there was a nuisance issue, but rather than strip the Ellisons of their grandfathered rights to keep the horses onsite,

recommended placing conditions on the keeping of horses.

All parties involved had received the same meeting notifications and packets. Legal Staff addressed the statute governing violations of regulations in Part 1 Zoning Districts, Sec. 76-2-113, MCA. Notice was appropriately sent to both the absentee owner and the tenant, the user of the property.

Commissioner Hunthausen moved to incorporate the record from the July 24, 2013, Planning and Zoning Commission meeting into today's record. Commissioner Good Geise seconded the motion. The motion carried 3-0.

Public comment –

Mike Ellison, 811 Hiawatha, stated Mr. Campeau sent a letter stating he was unable to attend today as he received the packet on Monday and was unable to make arrangements to attend. He was concerned that others who had written letters of support were not indicated on Ms. Jacques' map.

Paula Jacques, 2010 Westridge Court, restated her concerns: the setback issue for the animal enclosure; a vegetated and maintained buffer zone; screening; dust control; flies; odors from manure and urine; and fire danger from the haystack and unmaintained vegetation.

Public comment period was closed.

Commissioner Hunthausen moved to accept the recommendation of the Planning and Zoning Commission and acknowledge that there is a nuisance and direct the Staff, Planning Director, and his Staff to prepare Conditions that would address or mitigate the nuisance issues as described in the Planning and Zoning Commission meeting and now in the record. The Conditions would go back through the Planning and Zoning Commission for review. Commissioner Good Geise seconded the motion.

Discussion –

Katie Jerstad, Deputy County Attorney, suggested, based on the Planning and Zoning Commission meeting, stating what constituted a nuisance to assist Planning Staff in tailoring Conditions. She advised submitting the Draft Conditions through the Planning and Zoning Commission prior to the County Commission's consideration.

Commissioner Good Geise recapped the items that constituted a nuisance: the smell of urine, manure stockpiling and timely removal; dust control measures that did not result in degradation, erosion or runoff of waste, and pests.

Katie Jerstad recommended advertising the Planning and Zoning Commission meeting, and specifying in the motion a timeframe for the Planning Staff and Director to complete their work.

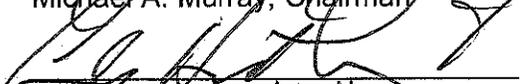
Commissioner Hunthausen amended his motion to include August 8th for completion of the Draft Conditions and August 28th for the Planning and Zoning Commission meeting; the County Commission would address the issue on August 29th. Commissioner Good Geise seconded the motion. The motion carried 3-0.

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 10:09 a.m.

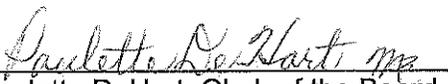
LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Michael A. Murray, Chairman


Andy Hunthausen


Susan Good Geise

ATTEST:


Paulette DeHart, Clerk of the Board