

**PUBLIC MEETING  
FEBRUARY 25, 2014  
MINUTES**

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, February 25, 2014, at 9 a.m. in Commission Chambers Room 330 of the City-County Building, 316 North Park Avenue, Helena, Montana.

Chair Susan Good Geise called the meeting to order at 9 a.m. Commissioner Andy Hunthausen and Commissioner Mike Murray were present. Others attending all or a portion of the meeting included Eric Bryson, George Theborge, Jeremy Gersovitz, Lindsay Morgan, Mike Henderson, Laurie Blakley, Jonathan Ries and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson)

a. Public Meeting Minutes – Jan. 7, 28, 30, and Feb. 4 and Feb. 6, 2014. (Rita Cortright)

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

No public comment was received.

Commissioner Murray moved approval of Consent Action Item a., as presented.

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

Task Order 14-07-4-51-00901 to Unified Govt. Master Contract Covering July 1, 2012 – June 30, 2019 – HIV Prevention Services. (Mike Henderson) The Commissioners will consider the task order allowing for additional HIV/AIDS prevention services in the amount of \$14,057.00 for the period Jan. 1 – Dec. 31, 2014.

Mike Henderson, Division Administrator, reported on Task Order 14-07-4-51-00901 in the amount of \$14,057 for HIV anonymous testing and counseling, referral and intervention program for HIV-positive individuals and partner notification work for new HIV/AIDS diagnoses in the county. The contract period was Jan. 1 – Dec. 31, 2014.

No public comment was received.

Commissioner Hunthausen moved approval of the Task Order to the Unified Govt. Master Contract covering July 1, 2012 - June 30, 2019, the HIV Prevention Services, as presented.

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

Amended Plat of Lot 10, Block 10–Skyview Subdivision – Phase IV-B. (Applicant: Alex Schroader) (Planner: Lindsay A. Morgan) The applicants request to reduce the side-yard utility easements along the east and west property boundaries of Lot 10 so that encroachment of the existing house and garage, located at 985 Mallard Court (Skyview Subdivision), will be eliminated. (Tabled from 2/20/14) Decision.

Lindsay Morgan, Planner, reviewed information presented from Staff's Memo dated Feb. 13, 2014, during the Feb. 20, 2014, public hearing. The applicant's request was to reduce two side yard utility easements on Lot 10, Block 10 of the Skyview Subdivision – Phase VI-B. The side

yard utility easement on the west property boundary would be reduced from 8 to 6 feet to eliminate a 1.8-foot encroachment of the house eave; the side yard utility easement on the east property boundary would be reduced from 8 to 2 feet in width to eliminate a 5.5-foot encroachment of the garage and its eave. The public hearing held Feb. 20 had been closed; subsequently, a letter from the applicant and two emails from the applicant's representative had been received. Staff recommended reopening the public hearing to consider the new information.

Commissioner Hunthausen stated that the cost of relocating a gas line could not be considered in making a decision. The decision would be based on building location, the gas line location and its ability to remain in its present location and not cause a significant impact to the utility or the homeowner. However, he was willing to reopen the public hearing.

Commissioner Murray agreed, citing advice from Legal Counsel that cost was not a factor in making decisions.

Lindsay Morgan added new information might be contained in the letter and emails regarding the location of the gas line. The gas line comes off of Mallard Court and runs southwesterly under the paved driveway, continues southeasterly, crosses into the utility easement again and splits. A portion of that gas line appears to go onto Lot 11, the adjacent lot to the east, and appears to run down Lot 10 under the eave of the existing garage. However, the email from the applicant's representative indicated this may not be the exact location of the gas line.

The public hearing was re-opened.

Public comment –

Jonathan Ries, 400 N. Park Ave., Helena, referred to the four options on pages 7-8 of the Feb. 13, 2014, Staff Memo, and requested an alternative option of securing an Encroachment Agreement from the County for that utility easement portion where the eave is encroaching on the west side of the lot. In the future, NorthWestern Energy could create service lines instead of a gas line for multiple users.

Lindsay Morgan clarified the option had been explored; the issue remained that banks were not willing to lend when a house or garage itself encroached into an easement.

Public comment was closed.

Commissioner Hunthausen moved to grant the eave encroachment on the west side of the property in question, reducing the utility easement from 8 to 6 feet.

Commissioner Murray seconded the motion.

Discussion –

Commissioner Murray noted no new information had been received since the Feb. 20, 2014, public meeting. The primary concern with the encroachment was from the West Valley Fire Dept.; however other 2-foot encroachments had been approved.

Commissioner Hunthausen said the eave encroaching 2 feet into the easement would not cause significant impact to use of the utility easement. The encroachment was part of the original building construction; the current owner purchased the property with the existing encroachment.

The motion carried 3-0.

Commissioner Hunthausen moved to grant the encroachment on the east side of the property to include the entire area where the garage has been constructed, conditioned upon removal or relocation of any underground utilities that impact the encroachment.

Commissioner Murray seconded the motion.

George Theborge, Planning Director, suggested clarifying that the motion was to reduce the width of the utility easement, as opposed to granting an encroachment.

Commissioner Hunthausen amended his motion to reduce the utility easement on the east side of the property from 8 to 2 feet to include the entire area where the garage was constructed, conditioned on the removal and/or relocation of the underground utilities impacted by the reduction of the easement.

Commissioner Murray seconded the amended motion.

Discussion –

Commissioner Hunthausen stated the following Findings of Fact: The garage was constructed without proper identification of the existing utilities and without verifying the restrictions placed on the property through subdivision, resulting in a zoning violation. The Commission was not in a position to allow encroachments that negatively impact the use of utility easements simply to clear title for sale. This was an issue between a private owner and the utility company, in terms of relocation of the gas lines, as the gas line runs outside of the existing utility easement and underneath the property driveway. The utility had expressed strong opposition to granting the applicant's request without some resolution as to where the gas line was located in relation to the garage; the motion attempted to address the issue.

Commissioner Murray stated that because cost was not a factor to be considered, this alternative offered an opportunity to resolve the matter and met the demands of the utility company.

Lindsay Morgan requested consideration of Conditions 3 and 4 as stated on page 7 of the Staff Memo.

Commissioner Hunthausen amended his motion to include Conditions 3 and 4.

Commissioner Murray seconded the amended motion.

The motion carried 3-0.

Eric Bryson suggested clarification of the first motion to state a reduction in the utility easement.

Commissioner Hunthausen amended his first motion to grant the eave overhang into and reduction of the utility easement on the west side of the property from 8 feet to 6 feet.

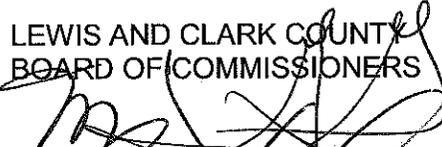
Commissioner Murray seconded the amended motion.

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.

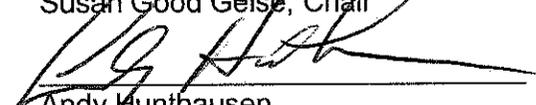
There was no other business and the meeting adjourned at 9:34 a.m.

LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS



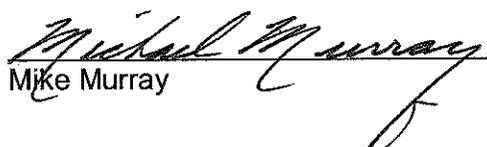
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Susan Good Geise, Chair



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Andy Hunthausen



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Mike Murray

ATTEST:



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Pauvette DeHart, Clerk of the Board