

**PUBLIC MEETING
MARCH 20, 2014
MINUTES**

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, March 20, 2014, at 10 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, Eric Spangenberg, Cheryl Green, Kyle Thomas, Melanie Reynolds, Nancy Everson, Jerry Christison, Dean Retz, Greg McNally, Frank Rives, Jack Walsh, Tony Prothero and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson)

- a. Yearly Roadway Mileage Certification. (Eric Spangenberg)
- b. Resolution 2014-30 Ordering a Refund of Taxes/Fees/Assessments Paid by Dearborn Ranch, LLC in the Amount of \$4,214.70. (Cheryl Green)

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

No public comment was received.

Commissioner Hunthausen moved approval of Consent Action Items 2.a. and b., as presented.

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

Bid Opening – Lewis and Clark Search and Rescue Building. (Kyle Thomas)

Kyle Thomas, Ast. Public Works Director, addressed the bid opening process, and introduced Ray Brown, chair of the Search & Rescue Board and Scott Cromwell, Slate Architecture.

Bid No. 1 Wadsworth Construction: Addendums 1 and 2 had been acknowledged. The bid bond was present. The bid was signed. Bid of \$1,210,000. Alternate #1 - \$65,000, Alternate #2 - \$80,000, Alternate #3 - \$17,400, Alternate #4 - \$38,450.

Bid No. 2 R&R Taylor Construction: Addendums 1 and 2 had been acknowledged. The bid bond was present. The bid was signed. Bid of \$1,245,357. Alternate #1 - \$47,400, Alternate #2 - \$48,500, Alternate #3 - \$16,000, Alternate #4 - \$49,800.

Bid No. 3 Dick Anderson Construction: Addendums 1 and 2 had been acknowledged. The bid bond was present. The bid was signed. Bid of \$1,214,473. Alternate #1 - \$53,000, Alternate #2 - \$54,000, Alternate #3 - \$51,200, Alternate #4 - \$49,850.

Bid No. 4 Abraham Construction Services: Addendums 1 and 2 had been acknowledged. The bid bond was present. The bid was signed. Bid of \$1,210,000. Alternate #1 - \$50,500, Alternate #2 - \$42,500, Alternate #3 - \$18,500, Alternate #4 - \$38,350.

Bid No. 5 ThinkOne Construction Management: Addendums 1 and 2 had not been acknowledged. The bid bond was present. The bid book was not present. Bid of \$1,036,156.

Alternate #1 - \$55,028, Alternate #2 - \$107,154, Alternate #3 - \$16,208, Alternate #4 - \$40,997.

Bid No. 6 Golden Eagle Construction: Addendums 1 and 2 had been acknowledged. The bid bond was present. The bid was signed. Bid of \$1,166,897. Alternate #1 - \$51,395, Alternate #2 - \$40,637, Alternate #3 - \$30,189, Alternate #4 - \$37,388.

Bid No. 7 Swank Construction: Addendums 1 and 2 had been acknowledged. The bid bond was present. The bid was signed. Bid of \$1,128,000. Alternate #1 - \$56,500, Alternate #2 - \$51,700, Alternate #3 - \$14,800, Alternate #4 - \$44,500.

Bid No. 8 Diamond Construction: Addendums 1 and 2 had been acknowledged. The bid bond was present. The bid was signed. Bid of \$1,353,000. Alternate #1 - \$70,800, Alternate #2 - \$50,700, Alternate #3 - \$34,400, Alternate #4 - \$52,100.

Bid No. 9 Outback Construction: Addendums 1 and 2 had been acknowledged. The bid bond was present. The bid was signed. Bid of \$1,249,000. Alternate #1 - \$25,500, Alternate #2 - \$70,000, Alternate #3 - \$18,800, Alternate #4 - \$36,600.

Commissioner Hunthausen moved to direct Staff to take the bids under advisement and make a recommendation to the Commission on Tuesday, April 1, at the regularly scheduled meeting.

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

Deborah Jacobsen, Hawthorne School principal, thanked the Commission for welcoming students into the City-County Building during yesterday's school evacuation and presented the Commissioners and Deputy Co. Attorney with tickets to their school's annual dinner/dance.

Resolution 2014-31 to Authorize Submission of Community Development Block Grant Application. (Laura Erikson) (Eric Bryson) The Commissioners will consider the resolution authorizing application to MT Dept. of Commerce for financial assistance from the CDGB to provide funds to the YWCA of Helena to rehabilitate its building at 501 N. Park Ave., Helena.

Eric Bryson, in Laura Erikson's absence, presented Resolution 2014-31 to Authorize Submission of a Community Development Block Grant Application, a follow-up to the Commission's authorization to apply for the CDGB Grant from the Tuesday, March 18, 2014 public meeting.

No public comment was received.

Commissioner Murray moved approval of Resolution 2014-31 to Authorize Submission of the Community Development Block Grant Application for the YWCA.

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

Supplement to Agreement between Lewis & Clark County and MT Dept. of Transportation for 2013 MT Air and Congestion Initiative Program Equipment. (Kyle Thomas) The Commissioners will consider the supplement amending Section 5. Method of Payment for the new flush truck.

Kyle Thomas, Ast. Public Works Director, reported on the Supplement to the Agreement between the County and MT Dept. of Transportation for 2013 MT Air and Congestion Initiative Program Equipment, addressing the method of payment. MDT would invoice the County for

non-federal matching funds once the equipment vendor had been selected, no more than 60 days prior to delivery.

No public comment was received.

Commissioner Hunthausen moved approval of the Supplement to the Agreement between Lewis & Clark County and MT Dept. of Transportation for the 2013 MT Air and Congestion Initiative Program Equipment, as presented by Mr. Thomas.

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

Amendment No. 2 to Contract dated March 7, 2013, between Lewis & Clark County and Ameresco, Inc. (Kyle Thomas) The Commissioners will consider the amendment in the amount of \$5,600 to move the existing condensing unit into the old OSA plenum and vent plenum through the roof at the Law Enforcement Center.

Kyle Thomas, Ast. Public Works Director, presented Amendment No. 2 to the Contract dated March 7, 2013, between the County and Ameresco, Inc., the energy performance contract, in the amount of \$5,600. The project was substantially complete; this was the final project Change Order allowing for placement of a coil for additional cooling of the radio room. Staff recommended approval of the amendment and authorization for the Chair to sign applicable documents.

No public comment was received.

Commissioner Murray moved approval of Amendment No. 2 to the Ameresco Contract.

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

Contract between Lewis & Clark County and Helena Brewers Professional Baseball Club. (Melanie Reynolds) The Commissioners will consider the contract in the amount of \$1,000 for the 2014 Tobacco Use Prevention Program co-sponsorship of the Lewis & Clark Kids Club organized by the Helena Brewers Professional Baseball Club.

Melanie Reynolds, Health Officer, reported on the Contract between the County and Helena Brewers Professional Baseball Club for the 2014 Tobacco Use Prevention Program co-sponsorship of the L&C Kids Club in the amount of \$1,000. Statistics from the Youth Risk Behavioral Survey cited that 90% of adults in the US who smoke started before the age of 18; and almost 25% of middle school students in the County had tried cigarette smoking. The contract allowed for use of tobacco prevention materials and logo, and participation in activities during Kids Club Days, as well as a tobacco-free event at a Brewers game.

Commissioner Hunthausen moved approval of the Contract between the County and Helena Brewers Professional Baseball Club, as presented.

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

Public Hearing. Amended Plat of Lot A – Guettler Subdivision No. 2. (Applicant: Larry Kim Smith) (Planner: Greg McNally) The Applicant is requesting an amendment to Exhibit “B” of the Subdivision Improvements Agreement in which he would no longer be required to make upgrades to Applegate Drive, and would instead be allowed to use all remaining funds held by the County under the current financial guarantee toward improvements to Griffin Road. In

addition, the Applicant is requesting to be allowed to provide an off-site fire protection source for the Subdivision to be located in Grand Valley Estates.

Greg McNally, Planner, on behalf of the applicant, Larry Kim Smith, presented a request to amend the Subdivision Improvements Agreement for the Amended Plat of Lot A – Guettler Subdivision No. 2, located east of and adjacent to Applegate Drive and south of and adjacent to Lincoln Road. Preliminary approval was granted on Aug. 2, 2005; final approval was granted May 13, 2008, at which time the SIA was signed. Today was noticed as a Public Hearing.

The Applicant sought to amend Condition No. 6 regarding the requirement to install an on-site water supply system for fire suppression capable of delivering 1,000 gpm at 20 psi for 120 minutes. Amendments to the Regulations now allowed for systems to be located off-site with Commission approval. The applicant was currently constructing an off-site fire protection source within the Grand Valle Estates Subdivision, approx. ½ mile from the Guettler Subdivision. The West Helena Valley Fire District Fire Chief had approved the location.

Condition No. 12 addressed the requirement to improve a segment of Applegate Drive to County Subdivision Regulations specifications (Typical Section No. 3). Under the SIA, the Applicant was required to construct both Applegate Drive (from Lincoln Road to 30 feet south of the south boundary of the Subdivision) and Griffin Road (from Applegate Drive to the Subdivision's west boundary) to County Road Standards. Subsequently, the courts determined the Applicant could only be required to pay his percentage of impact for improvements to both roads. The County determined the applicant's percentage of impact to be \$54,545.86. Today the applicant sought to amend the SIA to eliminate his requirement to improve the specified segment of Applegate Drive to County Standards, and to instead be allowed to use the funds to bring the entire segment of Griffin Road up to County Standards (Typical Section No. 2).

Staff outlined options for the Commission's consideration. The applicant was not present.

No public comment was received.

Commissioner Murray moved to render a decision on the request on April 1, 2014, at the regularly scheduled meeting.

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

Request for Extension - Amended Plat of Lot A – Guettler Subdivision No. 2. (Applicant: Larry Kim Smith) (Planner: Greg McNally) The Applicant is requesting an extension of the completion date listed under the Subdivision Improvements Agreement until January 27, 2015, and an updated financial guarantee to ensure the completion of all remaining improvements that will expire on February 27, 2015.

Greg McNally, Planner, on behalf of the applicant, Larry Kim Smith, presented the Request for Extension – Amended Plat of Lot A – Guettler Subdivision No. 2, as outlined in Staff's Memo of March 14, 2014. The Subdivision Improvements Agreement required all remaining improvements (off-site road improvements and fire protection) to be completed by March 24, 2014; however, none had been completed to date. The Letter of Credit in the amount of \$69,119.83 was set to expire on April 24, 2014. The applicant requested extending the SIA until January 27, 2015 and the Letter of Credit to Feb. 27, 2015. A revised Exhibit B was distributed that excluded the condition related to Applegate Drive.

No public comment was received.

Commissioner Murray moved to table the item to April 1, 2014, at the regularly scheduled meeting.

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

Public Hearing. Proposed Modifications to Conditions of Preliminarily Approved Fox Trot Estates Subdivision – II. (Applicant: Jerry and Genevieve Christison) (Planner: Frank Rives)
The Applicant is requesting modifications to both the preliminary plat and conditions of preliminary approval. The Applicants are also requesting a variance from Ch. XI.H.1 of the 2005 County Subdivision Regulations.

Frank Rives, Planner, on behalf of the applicants Jerry and Genevieve Christison, presented the request for Modification of Conditions of Approval for the Preliminary Plat for Fox Trot Estates Subdivision – II, and a Variance Request from Ch. XI.H.1 of the 2005 County Subdivision Regulations. A vicinity map was viewed indicating the subdivision's location west of Lake Helena Drive, and north of Merritt Lane. The following Conditions of Approval would be modified:

1. Condition No. 8 regarding the requirement to reconstruct the internal access roads to the current County standard (Typical Section No. 1);
2. Condition No. 9 regarding the requirement to dedicate an easement and construct a road along a portion of the south property boundary;
3. Condition No. 10 regarding the requirement to dedicate specified easements on the plat;
4. Condition No. 12.t regarding a covenant that prohibits the raising, keeping, or confinement of livestock on specified properties; and
5. Condition no. 17.b and c. regarding the requirement to dedicate specified easements on the plat.

Staff displayed both the original and new proposals for comparison and noted the proposed changes; photos of the subdivision were viewed. The modification request was precipitated by a change in the straight access road that was re-engineered to accommodate a steep incline, followed by aggregating a lot into the larger lot, and removal and relocation of access.

Discussion –

Commissioner Murray asked Deputy Co. Attorney Stahl if the Commission had jurisdiction over the covenant referenced in Cond. 12.t. Mr. Stahl stated if it was part of the original approval, it was open for change.

Frank Rives clarified that the covenants were applied to the preliminary approval; therefore, they were not yet in effect. By eliminating Lot 13-13, it would become Lot 13-12, and the covenants prohibited the keeping of livestock on Lots 13-1 through Lot 13-12. The large remainder lot was in excess of 26 acres and the applicant desired to run livestock on the lot.

Jerry Christison, 5220 Lake Helena Drive, the applicant, agreed with Mr. Rives' explanation of the requested change to Condition 12.t.

No public comment was received.

Commissioner Hunthausen moved to table the item to April 1, 2014, at the regularly scheduled public meeting.

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

Request for Extension of Preliminary Approval for a Minor Subdivision known as Baxendale. (Applicant: Mountain West Home Sales) (Planner: Frank Rives) The applicant requests an extension of the preliminary plat approval for the 5-lot subdivision located west of Helena, adjacent to Baxendale Road. Preliminary approval was granted March 27, 2008, with 21 Conditions, and will expire March 27, 2014.

Frank Rives, Planner, on behalf of the Applicant, Mountain West Home Sales, presented the Request for Extension of Preliminary Approval for a Minor Subdivision known as Baxendale. Preliminary approval was granted in 2008 for the 5-lot subdivision for single-family dwellings, subject to 21 Conditions of Approval. The plat was viewed; lots were just in excess of 5 acres in size. A 1-year extension was granted in 2011; a 2-year extension was granted in 2012. The original consultants were no longer in business; therefore, a new consultant and a new engineer, Tony Prothero, had been retained, thus the request for extension. DEQ approval had been secured. Staff visited the site on March 13, 2014; no visible work was noted in completing the Conditions of Approval. The applicant's request for extension provided an anticipated completion date of March 26, 2015. The current extension would expire on March 6, 2014. Staff had provided a draft Extension Agreement of the preliminary plat approval to March 26, 2017, the typical 30-year extension. Photos of the subdivision were viewed.

Tony Prothero, the applicant's engineer, provided an overview of his involvement with the subdivision, beginning in 2013. None of the original parties were involved with the project. A change request had been submitted in late 2013 related to fire protection. The Conditions of Approval required an on-site source. Subsequently, the Commission had considered off-site sources within a certain distance; therefore the applicant sought reconsideration. Secondly, in working with the County's Permit Coordinator, a road agreement was discovered that addressed improvements to off-site roads, not covered in the Conditions of Approval. A change request was being prepared in an effort to terminate the agreement to improve County roads in lieu of a pro rata share contribution; however, the impending deadline prompted the 1-year extension request.

Discussion –

Commissioner Murray asked Mr. Prothero if they considered providing a new application for the subdivision. Mr. Prothero confirmed they had; however, it would be for the same subdivision, and likely the same Conditions of Approval.

Commissioner Hunthausen moved to grant extension of the preliminary subdivision approval for Baxendale Minor Subdivision to March 25, 2016, as presented by Mr. Rives and Mr. Prothero.

The motion failed for lack of a second, as Commissioner Murray desired time to reflect on the request.

Discussion –

Commissioner Hunthausen stated the reason for his motion was that the current extension was set to expire March 25, 2014, and the Commission's next meeting would not happen prior to that date. No opposition to the request was received and he desired to see the project move forward.

Commissioner Murray stated his concern that no progress had taken place, and he wanted time to reflect on the request. Tabling the item to April 1 would keep the current extension in place to that date.

Commissioner Hunthausen withdrew his motion and moved to render a decision on April 1, at the regularly scheduled meeting.

Commissioner Murray seconded the motion.

Discussion –

Commissioner Hunthausen cited the change in parties involved with the subdivision as the reason for lack of progress and would support a 1 or 2-year extension to complete the project.

Commissioner Murray cited the new information provided today by Mr. Prothero as his reason for delaying until April 1.

Commissioner Good Geise stated her opposition to tabling, and was comfortable moving forward today.

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

Board Appointment to the Mental Health Local Advisory Council. (Eric Bryson) The Commissioners will consider making the appointment.

Eric Bryson explained there were currently three vacancies on the Mental Health Local Advisory Council due to resignations. David Torgerson had submitted his application on March 14, 2014, to serve in a consumer position. Staff recommended an appointment that would expire June 30, 2016.

Commissioner Hunthausen moved to appoint David Torgerson to a term on the mental Health Local Advisory Council as a consumer, to a term that would expire June 30, 2016.

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

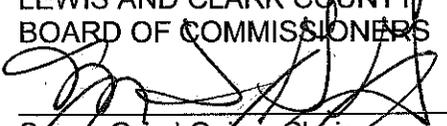
Public comment on any public matter within the jurisdiction of the Commission that is not on the agenda above. None.

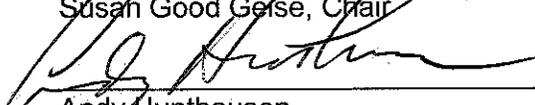
There was no other business and the meeting adjourned at 11:16 a.m.

ATTEST:


Paulette DeHart, Clerk of the Board

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Susan Good Geise, Chair


Andy Hunthausen


Michael Murray