



PUBLIC MEETING

July 26, 2016

MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, July 26, 2016, at 9:00 AM in Commission Chambers Room 330.

Roll Call

Commissioner Susan Good Geise called the meeting to order at 9 a.m.

Commissioner Andy Hunthausen was present. Commissioner Mike Murray was excused on County business. Others attending all or a portion of the meeting included Eric Bryson, Michele Peterson-Cook, K. Paul Stahl, Lindsay Morgan, Art Pembroke, McKenzie McCarthy, Paul Spengler, George Theborge, Sandy Oitzinger, John Oitzinger, Lee Flasnick, and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

- a. Public Meeting Minutes: July 7 and 12, 2016. (Nichole Nisbet)
- b. Independent Contractor Agreement Between Lewis and Clark County and Montana Internet Corporation. (Art Pembroke)

Eric Bryson reported on consent action item 2 a,b and recommended approval.

No public comment was received.

A motion to Approve was made by Commissioner Hunthausen and seconded by Commissioner Good Geise. The motion Passed on a 2-0 vote.

Collective Bargaining Agreement Between Lewis and Clark County and Laborers International Union of North America Local #1686. (McKenzie McCarthy)

McKenzie McCarthy, Human Resource Director, presented the Collective Bargaining Agreement with the Laborers International Union of North America Local #1686. The agreement is through June 30, 2018. The Union includes employees of Justice Court, Clerk of Court, the County Treasurer/Clerk and Recorder's Office and Public Works Department Building Maintenance division.

No public comment was received.

A motion to Approve was made by Commissioner Hunthausen and seconded by Commissioner Good Geise. The motion Passed on a 2-0 vote.

Contract Between Lewis and Clark County and Michael Baker International, Inc. (Paul Spengler)

Paul Spengler, DES Coordinator, presented the contract with Michael Baker International, Inc. for an impartial review of the technical and scientific information submitted by WWC Engineering for the Red Fox Meadows Subdivision Hydrologic Analysis in the amount of \$8,880. Part of the proposed Subdivision is located in a floodplain requiring a review to assist in the decision making process of approving of the requested floodplain permit. The contract is through September 1, 2016.

K. Paul Stahl, Deputy County Attorney, stated the report will be used by the County to obtain a third opinion on assessing the floodplain and noted that the contract is being sought as there is a substantial difference between the analysis done by DNRC and the subdivider. A third opinion is needed due to the consideration of the danger to health and safety with the location of the subdivision in the floodplain area. If the report meets the floodplain requirements a permit will be issue however he noted that the issue has been brought before a court to determine if the County is allowed to impose the regulations the County feels should be imposed. It was further noted that there will be consequences to the citizens of the County if the regulations are not imposed.

No public comment was received.

A motion was made by Commissioner Hunthausen to move this agenda item to the end of the regular agenda. The motion was seconded by Commissioner Geise. The motion Passed on a 2-0 vote.

Request To Modify Conditions of Preliminary Approval for the Valleyview Farms Subdivision. (Applicant: Valleyview Farms Development, LLC (John Oitzinger)) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented the request to modify conditions of preliminary approval for the Valleyview Farms Subdivision. The applicant, John Otizinger, is requesting permission to go through the modification process to amend Condition of Approval No. 4.c of the preliminarily approved Valleyview Farms Subdivision to eliminate the requirement to create a Rural Improvement District for the fire protection source. This Subdivision was granted preliminary approval on September 18, 2008 for five single-family residential lots and is located north of Canyon Ferry Road, and north of and adjacent to Emily Lane. The Commission must decide whether or not to allow the applicant to go through the modification process. If the Commission decides to allow him to go through this process, the applicant will be required to pay the requisite fee and a public meeting will be scheduled before the Commission.

Commissioner Hunthausen asked for additional information for the request.

Lindsay Morgan stated that the applicant has initially planned to put the fire protection source onsite however they have found a well owned by the East Valley Fire District as a preferred alternative for Valleyview Farms fire suppression.

Commissioner Geise asked if the applicant would need to obtain permission to use the well.

Lindsay Morgan stated they do need permission and noted that the applicant had already obtained permission to use that well.

PUBLIC COMMENT-

Lee Flasnick, 4094 Fox Ridge Drive, stated the water source on Emily Lane has been improved and the source has been approved for use by the Minor Subdivision. He asked for approval to continue on with the modification process and asked the Commission to waive the modification request fee of \$400.

Lindsay Morgan stated the Commission would need to decide on waiving the fee this morning.

A motion was made by Commissioner Hunthausen to approve the request to modify the conditions of preliminary approval for the Valleyview Farms Subdivision. The motion was seconded by Commissioner Geise. The motion Passed on a 2-0 vote.

George Theborge stated the fee waiver request was based on the applicants request in 2012 and not knowing of the option at that time. He did note that staff time will be needed to review the request at this time.

Commissioner Hunthausen asked if the fee waiver was based on a mistake made by the County.

George Theborge, Director of Community Development and Planning, stated that documentation may not be accurate or consistent and there is a question of whether or not the correct information was provided to the applicant during his previous modifications process.

John Oitzinger, the applicant, stated they did not know that the well on Emily Lane existed until a year ago and noted that the fire department did reject their initial request. He continued to state if they had been aware of the well it would have been included in the RID at the time and could have saved the applicants the money they spent to improve the well.

Commissioner Hunthausen stated the fee covers the costs associated with the staff time it takes to review the request.

John Oitzinger stated they have gone above and beyond with this process and asked the Commission to consider the request.

A motion was made by Commissioner Hunthausen to waive the modification fee as requested by the applicant. The motion was seconded by Commissioner Geise. The motion Passed on a 2-0 vote.

Contract Between Lewis and Clark County and Michael Baker International, Inc. (Paul Spengler) (continued)

The agenda item was brought back before the Commission.

Eric Bryson stated that in order to build in a County floodplain, a floodplain permit must be obtained. A review is done by the state to review the consequences of building in a floodplain however there is currently a dispute on the analysis from the state and the subdivider. The contract before the Commission is to provide a third party to review the property to allow the floodplain administrator to approve or conditionally approve the floodplain permit as necessary.

Commissioner Geise asked if DNRC is considered a County agent.

K. Paul Stahl stated that DNRC should be considered the County's engineers and noted they are not the County's agent. The state would still have to review the floodplain permit regardless of a third party review. The County is using standards set by DNRC and the applicant does not agree with the methodology used to set those regulations, therefore causing the dispute.

George Theborge, Community Development Director, stated that Paul Spengler is the local administrator of the floodplain and DNRC provides the technical review. The outside firm will evaluate both the applicant's submission and the DNRC review.

A motion was made by Commissioner Hunthausen to table the item until the regularly scheduled meeting on July 28, 2016. The motion was seconded by Commissioner Geise. The motion Passed on a 2-0 vote.

Public comment on any public matter within the jurisdiction of the Commission that is not on the agenda above.

Michele Peterson-Cook, board member of the Myrna Loy, presented events that are occurring this week in celebration of the Myrna Loy Center's 25th Anniversary.

Adjourn

There being no further business, the meeting adjourned at 9:52 am.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Michael Murray, Chairman


Susan Good Geise, Vice Chair


Andy Hunthausen, Member

ATTEST:


Paulette DeHart, Clerk of the Board