

**PUBLIC MEETING**  
**April 9, 2002**

Chairman Mike Murray called the meeting to order at 9:00 a.m. Commissioners Varone and Loendorf were present. Others attending all or a portion of the meeting included Sharon Haugen, Ron Alles, Eric Griffin, Jerry Grebenc, Frank Rives, Dan McCauley, Bruce Suenram, Larry Marshall, Bryan Shields, Dean Retz, Jay Roberson, Mary Faith Hoeffner, David Modde, Joe King, Randy Wilke, Russ Hyatt, W.J. Truscott, Dan McCauley, Steve Mandeville, and Carole Byrnes.

Pledge of Allegiance. Everyone recited the pledge.

TSEP Grant Application for the Replacement of Three (3) Bridges in Lewis and Clark County. Entranco Engineer, Dan McCauley, reported on the draft TSEP application. The proposed project is \$308,000. The county has already committed \$20,000 as local match towards writing the application, capital improvements, and bridge evaluations. The three bridges are the Lake Helena Drive Bridge over Irrigation Canal in the east valley, John G Mine Road Bridge over Silver Creek, and the Stemple Pass Road Bridge over Poorman Creek.

Lake Helena Drive Bridge was rated the highest among the bridges replaced in the valley. This bridge will be replaced with a concrete spread footing abutment and tri-deck beam. The estimated cost for this project is \$117,045. These estimates include construction, engineering, contingency, and administration costs.

John G Mine Road Bridge is a concrete bridge that has deteriorated substantially. This bridge will be replaced using a tri-deck bridge system. The estimated cost is \$112,590.

Stemple Pass Bridge is an old concrete bridge. This bridge will be replaced with an aluminum box culvert 15 feet wide by 6 feet high with an open bottom due to this area being a fishery. The estimated cost is \$79,110.

The total cost of the projects is \$328,745. The county is requesting \$164,732 from the TSEP program, the Lewis and Clark County bridge funds will commit \$144,372, and \$20,000 has already been committed as match funds. The application is due May 3, and will be ranked this summer, presented to the 2003 Legislature. If approved, funds will be available July 2003. Entranco is proposing to design these bridges this summer and try to complete the two projects in the Helena area first and then Stemple Pass Road in Spring 2003.

Mr. McCauley explained that the Treasure State Endowment Program (TSEP) is a program set up through the Legislature, which was established in 1993 and is funded by interest from Coal Tax Trust Funds. Lewis and Clark County has been successful in receiving funding on three previous bridge applications. The most recent application in 2000 was ranked #1 in the state.

Hearing no public comments, the Chairman closed this portion of the hearing. The final public hearing is scheduled for Friday, April 12 at 10:30 a.m. in Augusta.

Consideration of Bridge Evaluation and Capital Improvement Plan Report. Eric Griffin reported that the Bridge Evaluation and Capital Improvement Plan Final Report dated April 2, 2002 was prepared by Entranco. The purpose of this inventory is to catalog and evaluate the conditions of the county's bridges for ongoing maintenance and future bridge repairs or replacement. The Plan will become part of the 2002 TSEP Grant Application for the three bridges discussed above. Staff recommended that the Board of Commissioners approve the Bridge Evaluation and Capital Improvement Plan Final Report for 2002.

Hearing no public comments, Commissioner Varone moved to adopt the Bridge Evaluation and Capital Improvement Bridge Plan Report for 2002. Commissioner Loendorf seconded the motion and it carried unanimously.

Proposed Major Subdivision, Preliminary Plat, Northwest Major Subdivision. The applicant proposes to create five lots, each for one single-family dwelling. The proposed subdivision is generally located south of and adjacent to Prairie Road, approximately ½ mile west of North Montana Ave. The applicant, Larry Marshall, was present and indicated his willingness to proceed. Jerry Grebenc presented the staff report. Lots 1 through 4 would be served by a shared well and a shared on-site wastewater treatment system. The applicant did not indicate what type of water or wastewater system would be used on lot 5, which is over 20 acres and is exempt from DEQ review, but he would need a septic permit from County Health Department. Access to the lots would be via individual and shared approaches onto Prairie Road. Applicant has expressed a preference to provide cash in lieu of parkland dedication. The Park Board has not yet reviewed the proposal.

The applicant was granted preliminary plat approval for the Skyview Major Subdivision in June 1995. The original proposal was to create 127 single-family lots and 6 commercial lots. Skyview Major is located adjacent east of the subject property. During the pre-application conference for the current proposal, staff indicated to the applicant that the proposal would be subject to review as a major subdivision due to the proposal's proximity to other subdivisions, ownership history and adjacent property, dates of previous subdivision applications by the applicant, coordination of improvements, and the accumulative number of lots that would be created. The applicant was satisfied to go through the process as a major subdivision.

The five lots are developed with four groundwater wells. Three of those wells are designated for the Town View Major Subdivision and one for Skyview Major. A shared well is proposed for lots 1 through 4 and it is assumed that lot 5 will have an individual well. The long-term availability for groundwater is unknown. Upon completion of a pump test for the Skyview Major Subdivision in April 1994, it was concluded there was sufficient water available for domestic use for Skyview Major.

The applicant requested an increase in the beneficial water use permit to drill a well adjacent to the Town View well and would be subject to review and approval by the DNRC. The applicant has indicated that he intends to develop the southern 28 acres with 90 additional lots in the future. The West Valley Fire Department has requested the applicant either install a storage tank or wet hydrant with a minimum of 60,000 gallons or, contribute \$200 per lot to the district for providing, improving and maintaining fire fighting water supplies, and develop and maintain fuel modification plan which shall be approved by the West Valley Fire Department. The Water Quality Protection District indicated that increasing residential density in the area will negatively affect the groundwater aquifer.

The Planning Board's concerns were issues of wastewater and water. The Planning Board approved staff recommendation that the applicant connect the proposal to the water and wastewater of Skyview Subdivision or get a certification from an engineer or DEQ that the capacity was not available. After discussion with the applicant, it is apparent that the wastewater treatment system does not have capacity to accept these 4 lots. The Planning Board approved the fire department's recommendations. The Board approved the proposed subdivision subject to 18 conditions as amended. Conditions 2, 3, 13, 13.i, 13.j, 17, and 18 were amended. Residents of the Town View Subdivision testified that they had an easement on the subject property that allowed them to establish wells and a 100,000-gallon reservoir. Staff has included this condition 18 as a condition of approval.

Due to the fact that the Skyview Water and Sewer District does not have the capacity to accept any further hookups, staff recommended that condition 2 be deleted from the conditions of approval. Staff recommended that the following language in condition 3 be deleted: *If DEQ or a licensed engineer certifies that the Skyview public water system and wastewater system does not have capacity.* Staff also recommended that *and waste water lines and treatment facilities* be deleted from condition 14.b.

There was discussion regarding how ownership history plays a part in determining whether a subdivision should be considered a major or a minor subdivision.

Larry Marshall would like to add the following language to condition 18, *or as mutually agreed between Townview Estates and M&W Investments.* This will allow the applicant to come to another possible agreement other than easements or locations. Mr. Marshall discussed the ownership of the Skyview property. He stated he is concerned with condition 8 because fire protection services have cost him approximately \$101,000 to date; and therefore would like to eliminate condition 8 and amend condition 18. He has maintained the goal of affordable lots. He requested that the Northwest Subdivision be filed as a minor subdivision. He does not believe that 4 additional residential lots and one vacant lot is a cumulative impact.

Commissioner Varone asked Mr. Marshall how much more he anticipated having to pay if Condition 8.1 was approved. He stated that with future development of ninety lots at

\$200 a lot, it would be around \$18,000.

Bruce Suenram, representing the West Valley Fire Department, stated that this proposal was reviewed as a separate subdivision proposal rather than a phase and therefore the same requirements were followed. If the BoCC chooses to interpret this proposal as a phase, he believes the conditions previously set for Skyview would be adequate for this proposal and the fire district would not ask for the \$200 per lot fee.

Randy Wilke, 1139 Saddlebill Road, representing Town View Estates Water Users Association. He stated the residents of Town View Estates oppose this proposal at this time. The issues of groundwater quality and quantity, wastewater treatment, fire protection, ingress-egress, and the Town View Estate non-exclusive easement require further research. He asked the Commission to table this proposal until these issues are satisfactorily resolved.

Hearing no other comments, this portion of the public hearing is closed. Commissioner Varone moved to render a decision Thursday, April 11. Commissioner Loendorf seconded the motion and it carried unanimously.

The Commission recessed and reconvened at 10:30 a.m.

Proposed Major Subdivision, Preliminary Plat, Rosemary Acres II Major. The applicant proposes to create 11 lots, each for one single-family dwelling. The proposed subdivision is generally located north of John G Mine Road and west of and adjacent to Rosemary Drive. The applicant, Scott Truscott, was present and indicated his willingness to proceed. The applicant's representative, Dean Retz, was also present. Frank Rives presented the staff report. Each lot would be served by individual wells. Access would be via Sage Brush Drive. The applicant has proposed to provide a cash payment to fulfill parkland requirements for this proposal. The restricted covenants are the same as those for the Rosemary Major Subdivision. Several adjacent property owners responded expressing concern for water quantity and quality and maintenance issues on Rosemary Drive. The WQPD reported that groundwater quality in the area is fair to poor. The applicant would be required to submit a five-year weed management plan. The subject property is located in the southern portion of the North Hills controlled groundwater study area, and the applicant will be required to conduct a 24 pump test. The floodplain administrator is satisfied that the proposal is not located within the 100-year floodplain. Staff recommended approval of the proposed subdivision subject to 17 conditions as outlined in the staff report. The Planning Board recommended that condition 12 be deleted and condition 13.i be deleted as a duplicate of 13.h. and approved the proposal subject to 16 amended conditions. In a letter from Roy Kemp, he states that a decision should be delayed until the matter of the proposed groundwater study is resolved to determine whether or not the additional lots could have a negative impact to the existing water table.

Dean Retz, 1430 Shirley Road. Mr. Retz stated the new proposed covenants include a road maintenance agreement. Lot B has the proper separation for the drainage

easement. He discussed the nitrate level being below the statutory limit and a non-degradation analysis and retention report. Phase 1 was the 4 lot minor which was approved by the BoCC in December 2000 and was final platted in October 2001. Under Phase 1, an extensive Silver Creek floodplain analysis was done and a floodplain permit was received. Mr. Truscott cleaned out the culvert and reimbursed the Rosemary Homeowner Association for his prorata share of a portion of Rosemary Drive to Thomas Court. Most of the homeowner concerns have been addressed in the staff report. Mr. Truscott has agreed to install a culvert on Lot E off Rosemary Drive. The Rosemary Acres HOA asked that the parkland dedication money go to Thomas Court for park improvements. Mr. Retz feels that condition 1 is too restrictive. The applicant is in favor of condition 13.c, but requested that condition 13.h.3 and 4 be deleted or altered. Mr. Truscott will get nitrate and coliform samples on both wells.

Commissioner Varone requested staff to provide the full narrative of the Planning Board discussion surrounding condition 1.

Hearing no other comments, this portion of the public hearing is closed.

Mr. Retz closed by mentioning that the City-County Health Department gives pre-application conference applicants a copy of a letter dated November 1, 2001 from DEQ stating what the requirements are for pump testing in this area and condition 1 is more stringent than DEQ's requirements.

Commissioner Loendorf moved to render a final decision on Thursday, April 18, 2002 at 10:00 a.m. in room 309. Commissioner Varone seconded the motion and it carried unanimously.

Proposed Minor Subdivision, Summary Review, Mary's Meadow Lots B-4 Minor. The applicant proposes to create a duplex (one single-family dwelling) with attached single-family apartment. The proposal is generally located south of Highway 200, approximately 2 miles east of Lincoln. The applicant, Jay Roberson, was present and indicated his willingness to proceed. Frank Rives presented the staff report. The two units would share a well and wastewater treatment system, and utilities. Access to the property would be from High Sign Road, which connects to Highway 200. Covenants have been recorded for this subdivision. The subject proposal would not impact the surrounding agriculture uses. An existing ditch easement crosses through the southwest corner of Tract B-4. The subject proposal complies with subdivision regulations. A weed management plan is in effect. Staff recommended approval subject to 11 conditions as outlined in the staff report. Condition 8 is a duplicate and should be deleted.

Jay Roberson is in agreement with the conditions as proposed by staff.

Hearing no other comments, this portion of the public hearing is closed. Commissioner Loendorf stated the Lincoln Community Council had no problems with this proposal. Commissioner Varone moved to approve the proposal subject to 10 conditions as

recommended by staff. Commissioner Loendorf seconded the motion and it carried unanimously.

Amendments to Conditions of Approval.

Commissioner Loendorf moved to delete condition 8, which is a duplicate.

Commissioner Varone seconded the motion and it carried unanimously.

Condition 9. Commissioner Varone moved to change 9.e to 9.c. Commissioner Loendorf seconded the motion and it carried unanimously.

Condition 9.c. Commissioner Varone moved to modify the sentence to read, 'any necessary improvements required by the submitted weed management plan, or approach permit.' Commissioner Loendorf seconded the motion and it carried unanimously.

The motion to approve the 10 amended conditions carried unanimously.

Proposed Minor Subdivision, Summary Review, Hoeffner Minor. The applicant proposes to create a second dwelling on the parcel. The proposal is generally located two miles east of Lincoln on Montana Highway 200. The applicant, Mary Faith Hoeffner, was present and indicated her willingness to proceed. Frank Rives presented the staff report. Access is from Hi Sign Road via an easement across a neighboring tract in Mary's Meadows. The proposal is no located within any zoning district and there are no zoning regulations. Currently, there are no covenants affecting the use of this property. Telephone inquiries were general in nature. There is an existing recorded ditch easement which crosses Tract A1. The applicant proposes a 40-foot wide access and utility easement across the southern boundary of Tract B-2 of Mary's Meadow Minor. To provide legal and physical access and proper access for emergency vehicles to the proposed second dwelling, the applicant would need to construct a road on the reserved easement and meet county standards for a short cul-de-sac. Water quality and quantity appears to be adequate in the area for domestic use. No parkland dedication is required. Staff recommended approval subject to 13 conditions as outlined in the staff report. Staff recommended that condition 11 be deleted as a duplicate of condition 9.

Mary Faith Hoeffner agreed to meet the conditions. She has an agreement with the County Extension Service to sell weed free hay. She was unclear about the access road to this property being 40-feet wide. Mr. Rives explained that the easement would be 40-feet wide and the internal access road would be 20-feet wide.

Hearing no public comments, the chair closed this portion of the hearing. Commissioner Loendorf stated the Lincoln Community Council offered its full support for this proposal. Commissioner Varone moved to approve the proposal subject to 14 conditions as recommended by staff. Commissioner Loendorf seconded the motion.

Amendments to Conditions of Approval.

Condition 11. Commissioner Varone moved to delete this condition as a duplicate of condition 9.

Condition 10.b. Commissioner Varone moved to delete the radon condition. The motion died for the lack of a second.

Condition 10.c. Commissioner Varone moved to delete the UBC condition. The motion died for the lack of a second.

Condition 10.d. Commissioner Varone moved to delete the waiver of right to protest joining a maintenance district condition. The motion died for the lack of a second.

Condition 10.f. Commissioner Varone moved to modify the condition to read, 'any exterior lighting shall be arranged and directed downward ~~so as~~ to minimize illumination beyond the property lines.' Commissioner Loendorf seconded the motion and it carried unanimously.

The motion to approve the proposed subdivision subject to 13 amended conditions carried unanimously.

Request for Extension for the Bailly Tract Amended Plat Minor Subdivision. Frank Rives reported that the applicant, Jim Dusenberry, has requested an extension of time to complete the annexation to the City's water and sewer system. Tabled to Thursday, April 11, for a specific extension date.

Request for Extension for the Dakota Valley Mobile Home Park Major Subdivision. Sharon Haugen reported that the applicant, Redge Meierhenry, has requested a one-year extension to June 10, 2003. This is his final extension request. Mr. Meierhenry has shown due diligence and therefore staff has recommended approval of the request. Commissioner Loendorf moved to approve the extension to June 10, 2003. Commissioner Varone seconded the motion and it carried unanimously.

There being no other business, the meeting adjourned at 11:50 a.m.