

PUBLIC MEETING
December 21, 2004

Chairman Mike Murray called the meeting to order at 9:00 a.m.

Commissioner Tinsley and varone are present. Others attending all or a portion of the meeting included Ron Alles, Sharon Haugen, Marni Bentley, Carol Hanel, Robert Perry, Steve Haddon, Derek Fox, Kevin Ore, Todd Wiedbusch, Adam Gustine, Brandt Baresh, Tim Greyor, Susan Mergenthaler, Ken Mergenthaler, Susan Samson, Elaine Marcinek, Terry Olson, Paul Mousseau, Mike Saerhan, Mike Fasbender, Bill Wegner, Mike Bourquin, Mike Newhouse, Chase Berg, Mike McFerrin, Raymond Brown, Raymond Brown, Jr., Jerry Shepherd, Willy Wegner, Jerry Christison, Jerry Shepherd, Tim Davis, John Wilson, Tony Protero, Mike Wagner, Bill Pierce, Ray Fuller, Mark Stahly, Cedron Jones, Ron Barsch, Jim Moore, Mike Hughes, Ken Vivrette, Robert Throssell, Steve Netschert, Steve Mandeville, and Carole Byrnes.

Pledge of Allegiance. Everyone recited the Pledge.

Resolution To Amend Rural Improvement District 92-1, Colorado Gulch to Include the Installation of a Streetlight. Marni Bentley reported the amendment allows for the installation of a streetlight at the corner of Colorado Gulch and Highway 12 West. No comments were received. A rate hearing will be scheduled in the near future. NorthWestern Energy will install the streetlight as their schedule allows. Hearing no comments, the public hearing is closed.

Robert Perry, 1458 Colo Gulch, stated he is in favor of the resolution.

Commissioner Varone moved to approve and authorize the chair to sign the resolution. Commissioner Tinsley seconded the motion and it carried unanimously.

Resolution Levying And Assessing A Tax Upon All Benefited Property Within The Rural Improvement District No. 2000-1, Golden Estates. Marni Bentley reported the road association has requested the rate hearing to fund a chip seal project for next summer. Rate scheduled attached. No protests were received. Staff recommends approval. New RID assessment is \$101.80 from \$64.

Steve Haddon, Yuhas Ave. not opposed to the chipseal project but why should homeowners be responsible to pay bonding and insurance.

Hearing no comments, the public hearing is closed.

Carol Hanel. Ins and bonding-requirement of a 5% rate if going with an intercap loan. Engineer-on site, inspect, pre-bid mtgs, follow up w/contractors, payroll. Construction contingency-safeguard for lower or higher, but pays off the loan sooner. If not used, it is not spent.

Commissioner Tinsley moved to approve the resolution and authorize the chair to sign. Commissioner varone seconded the motion and it carried unanimously.

Independent Contractor Contract. The Commissioners will consider the contract with Linda Stoll for lobbying services for the 2005 legislative session not to exceed \$8,000.

tabled to Thursday, December 23 to obtain workers comp insurance. (Withdrawn)

Request for Modification of Conditions of Approval for Preliminary Plat to be known as Northwest Major. (Applicant M & W Investments/Larry Marshall) (Planner, Michael McHugh) (cont. from 12/2/04) The Commissioners will consider a modification of preliminary approval by reducing the total number of lots for residential use from 5 to 4 and to relocate the boundaries as approved on the original site plan. The subject property is located in the NE1/4 of Section 7, T11N, R3W; generally located south and adjacent to Prairie Road.

Michael McHugh reported the applicant has submitted a request to postpone the modification to a later date.

At the applicant's request, Commissioner Varone moved to table this to January 31. Commissioner Tinsley seconded the motion and it carried unanimously.

Proposed Road Abandonment of Deer Park Drive. (Principal Petitioners, Kevin Crabtree and Jodee Hoovestal) (Planner, Frank Rives) (cont. from 11/30/04) The Commissioners will consider abandoning a segment of Deer Park Drive right-of-way approximately 280 feet long and 60 feet wide. The proposed road abandonment is located in the SE1/4 of Section 8, T11N, R2W. **(Note: Applicant has submitted a request that the Commission postpone its decision to a later date)**

Public Hearing on Draft Lewis and Clark County Subdivision Regulations. Sharon Haugen The Commissioners will consider public comments on the draft subdivision regulations. A second public hearing will also be conducted at 5:30 p.m. Highlight portions of the growth policy. Document is not a regulatory tool.

How many subd have been approved in lewis and clark coun approved 71 majors 2,480 lots. Denied 1 major-253 lots.

Minor 343 minors 904 lots
Denied 21 minor – 61 lots.

Housing starts – 277 2003
Cost comparisons.

Average price \$127,000

Look for updates in design standards in regulations.

1. predictability for property owners to more effectively manage change
2. preserve water quality...

Technical groups, staff met at least 6 times, citizen working group.
Commission appointed working group included Jim Taylor, Dave Mason, Dave Cole, Lee Wolfe

This has been a 3 year process for the planning board who met 12 times.
BoCC met 11 times.
Regulations sent to counsel for review.

Major changes area:
Clarification of admin changes.
Clarification of subd process for sale lease or rent
Addition of cluster development section

Addition of water body set backs.
New fire regulations

Draft on the website contains most of the BoCC changes.

Commissioner Murray stated the Commission will recess at 11:45 and reconvene at 5:30 this evening.

Jerry Christison, 5220 Lake Helena Drive. Regulations are necessary. Concern developers need to know what is expected before they come in. Addressed fire codes-sprinklers are a building code requirement. Impact fees charged is not addressed properly. Subdivision can be denied "for any reason."

Jerry Shepherd, written comments are incorporated into the public record. Representing all the fire chiefs in Lewis and Clark County. Believe the regulations fit the bill. Seen unprecedented growth in county. Most dept have improved level of service to community. Regulations will assist in regulations to help emergency vehicles to get to fire. Regulations address consistency. There are incentives built in to install sprinklers. Only large commercial buildings and 2 story buildings. Depending on ISO ratings. Urge the bounty commission to adopt the subd regulations for Lewis and Clark County.

Tim Davis, 580 S. Rodney. Agree with Mr. Christison. Addressed old standards and why new standards are needed. With rights, come responsibilities. Establish a fair and predicable balance. Insure not to undermine neighbors' drinking water. Urged the comm. to adopt and bring fairness to development standards in Lewis and Clark County.

John Wilson, 405 Monroe Ave, representing Montana Chapter of Trout Unlimited. Comments on water body set backs and buffer areas. In favor of this provision as written, but represent a minimum. Will protect quality of life and community. Protects habitat. Strongly favor as written.

Tony Protero, 3264 Harness Loop. In favor of changes to regulation that include predictability and define timeframes necessary to complete the planning review of a project. Summarized the contents of his letter. Concerns include the requirement of a DEQ approval statement. Suggestions for changes: to provide preliminary analysis, provide prelim analysis of septic system, and provide a prelim nondeg analysis.

Mike Wagner, agrees with Tony's statements. Necessity to insure. Process allows fairness by requiring DEQ approval after prelim plat. Urged the Commission to not require DEQ approval prior to prelim plat. Drives the cost of develop up significantly.

Bill Pierce, Dodge Avenue. Acknowledged the work of the groups. Fire requirements-sprinkler systems. Inappropriate for county to be enter area of

building construction types. Statutorily the county has no authority.

Recessed for 10 minutes.

Ray Fuller, 706 Knight Street. Proposal before the board in the near future. Make it feasible for developers . strike or revised that portion of the regs for DEQ approval.

Mark Stahly, 900 Benton Ave, Pres of the association of realtors. Opposed to the adoption of regs as currently proposed. Concerns: unreasonably fringe on private property rights. Read letter. Eliminates landowners to develop their own property. Building codes, fire codes should not be included in these regulations. A number of members of realtors are opposed to the regulations. Carefully consider the comments and to amend the regs accordingly.

Cedron Jones, 940 Wilder. Support adoption of regs but concerns of actual language and actual document as a document.

Chapter 4-Minor Subds. Look at terminology. Prelim plat, site plan and sketch plan. Hard to follow actual intent. Five different terms prelim plan, prelim plat app and prelim plan, prelim plat, prelim app (has been crossed out) and plat inserted. See section 8. for the sake of cleanliness and integrity of document. See section 9-correct typos. Same sentence is repeated in the 1st and 2nd paragraphs. Changes made argue for approving the doc but important not to wait. Be consistent with the standards the community is expecting. Support higher standards they are a reflection of what we desire. Affordability. Important to get growth policy in the doc.

Commissioner Murray.

Ron Barsch, 184, Saddle Mountain Drive., Pres of Hel Building Assoc. Submitted letter and consider points contained. This document is not the place to accomplish everything.

Jim Moore, 900 No. Montana Ave. in the past have participated on the review panels. Frontload the cost by adding with fees directly related to fire protection, sheriff, will create an undue burden on developer by passing on the cost to the homeowner. the cost of a subdivision has increased. If assume that $\frac{3}{4}$ to 1% ration between lot and house. If levy any fees those fees should be spread out in the tax system. Take this into consideration before passing this document.

Mike Hughes, 809 ___ Avenue. Representing each person who owns a home. Developers are increasing the tax base-due to county hiring additional people. Were very educated in discussions with fire fighters. Need water every 2 square miles in the county requested by fire chief Shepherd. Issue of the view shed-take a better look at this section.

Ken Vivrette, 92 South Hills Road. Section 13-transfer of title. Read letter from Valley Bank. See 13. a changed from title. 13.g to be deleted. (also see letter from Linda Cockhill) does not need to be in regulations.

Comm M. copied from statute, MCA 76-3-303 and need to change at legislature.

Robert Throssell, 814 Gilbert. (Planning Board member). Discussed the term affordability. Issue of roads. Time has come to start paving roads. Issue of water-needs to be addressed upfront. Fire regulations-do not put firefighters in jeopardy.

Commissioner Murray. Thanked the planning board for its efforts.

Steve Netschert, 665 S. Davis. Appreciate the work, time and effort of staff in putting together this document. The document is far from equitable and not easy to understand and will create sprawl. Fire protection standards-overbearing regulations. Urged the comm. to table until the legislative session.

Kim Smith. Discussed DEQ approval before prelim plat issue-not a good provision. This will favor large developers versus the small lot owner. Sprinkler systems cause water damage.

Commission recessed for five minutes.

Rick Alton, 65 Cloverview. Any opposition to this document shows you are against the fire department. There are elements within the doc should be looked at more closely. Continued examination of the process of the application requiring DEQ approval. what's the purpose behind changing it? Has not heard why.

Mark Kelly, 409 S. Beattie. Obo Planned Helena. Design standards are fairly simple process to include. Fire protection standards. Gallatin and Missoula County design standards.

Hearing no other comments, the public hearing is recessed to 5:30 p.m. tonight. The Commission will only hear comments on the proposed draft document and will continue until approximately 7:00 p.m.

Public comments on matters not mentioned above. None.

There is no other business, the meeting adjourned at 11:30 a.m.

Continuation of Proposed Subdivision Regulations

Chairman Mike Murray called the meeting to order at 5:30 p.m. Commissioners Tinsley and Varone are present. Others attending all or a portion of the meeting included Ron Alles, Sharon Haugen, K. Paul Stahl, Michael Kakuk, Dave Mason, Steve Bullock, Kenneth Philips, Roxanne Lincoln, Wayne Pochecko, Jay Erickson, Derek Brown, Andy Skinner, Steve Skinner, Janet Ellis, Vic Delude, Michael Roberts, Michael Wong, Michael Korn, Ryan Taylor, Dick Thweatt, and Carole Byrnes.

Sharon Haugen. The purpose of the hearing is to hear comments on the draft subd regs. Second hearing. Thanked staff, and citizen and working groups. Looked at the number of major subd approved.

71 majors, 2,480 lots. Denied 1 major
Minor subd. Approved 343 with 900 lots, denied 21 with total of 61 lots.
Housing starts. LCC 200-250 in 2003.
Avg cost of housing. LCC 2003 sale price \$127,000. \$130,000.

No revisions since mid-80's.
Provide more predictability for property owners in the affected planning area.
Preserve, protect water quantity and quality in Lewis and Clark County.
Implementation of growth policy. To find a balance.

Review Process:

Technical working group. Met 6 times
Citizen working group. Derek Brown, Dennis Fly, Jim Taylor, Dave Mason, Chris ____, and Rick Kenison. Met 8 times.
3-year process for planning board which met approx 12 times.
BoCC met 11 times.

Major proposed changes:

- Clarification of admin procedures
- Clarification of subd process for sale lease or rent
- Addition of cluster development section
- Addition of water body setbacks
- Addition of ridgeline standards
- Revision of road standards
- New fire regulations [policy 4.2, 3.2]

Commissioner Murray opened the public hearing and asked that comments be limited to 10 minutes.

Michael Kakuk, 1717 Harrison Avenue, attorney working for Helena Association of Realtors. Cannot recommend adoption as proposed. (1) county-wide zoning, (2) pending legislation, (3) unworkable regulations. Discussed AG's opinion relative to pre-DEQ approval. Not endorsed by the planning board.

Dave Mason, 2606 Thunder Drive, Pres Lewis and Clark Fire Council. Balanced urban requirements, built incentives to install sprinklers in homes, access, water supply. Fire flow regulations come from ISO regulations. Determines insurance rates of what

residents pay. How close the buildings are together. The closer the buildings are the more water you need. Less than ¼ acre lots have the highest flow rates and must have hydrants spaced within 500 feet. Discussed methodology in lieu of water. Determined the cost of a 30,000 gal water supply (costs \$30,000). Urged adoption of the proposed regs.

Steve Bullock, attorney, 30 West 14th. Representing HBIA. Over 2500 members. Lewis and Clark County is a political subdivision of the state of Montana. Things in the doc the county has no authority to do. Fire regulations are not subdivision regulations, they are building code requirements. \$1,000 fire impact fee. Fire flow standards.

Kenneth Philips, 725 Hillsdale. Support road standards. Proactive approach towards fixing and maintaining the roads. You do not mention recycled asphalt products.

Roxanne Lincoln, 725 Hillsdate. Strongly encouraged the Commission to adopt the regs.

Proactive and meeting the demands of the public.

Wayne Pochecko, 6940 N. Montana Avenue. Has a problem with Pre-DEQ approval.

Jay Erickson, 304 N. Ewing. Proposed setbacks.

Derek Brown, 860 Mill Road. In favor of proposed regs.

Andy Skinner, work together. More work with people involved. With a 250 foot setback you cannot see the river. This needs to be on a case-by-case basis. Supports the fire departments in their request for fees. Road standards are a little severe-do on a case-by-case basis.

Janet Ellis, 703 Breckinridge, Montana Audoban. Supports floodplains, wetlands, ridgeline section and water body setbacks and buffer areas. To strengthen regs add should provide safety for protecting clean drinking water and prohibit new road construction in setbacks. Urged the Commission to adopt proposed regs.

Vic Delude, 425 Highland. (builder) no against but be sure they are equitable and the cost to be spread throughout the county.

Michael Roberts, 3392 East Shore Drive. President of N Canyon Ferry Park HOA. Understood his subdivision could be grandfathered in and footprints.

Michael Wong, 925 Menlo Park Road. Discussed setbacks. Appreciates the environmental . Cannot support the document as written. Concerns with impact of current property values. For future enhancement of properties in the event of disaster.

Michael Korn, FWP, 930 Custer Avenue West. Proposed rules regarding FWP go along way in terms of intrinsic worth. FWP staff supports water body sections. Ridgeline provision is important. Vegetation is a good idea. Also working with jeff County on subd regs.

Ryan Taylor, 2715 Goldrush Ave. The document could become a zoning doc in the future. Opposed to that portion of regs relative to setbacks.

The Commission recessed 10 minutes.

Sharon Haugen. Question to staff--Grandfathering of existing buildings on existing lots. This evening is only for idscussion on sug regs. If you are futher subdividing the property. These do not come into effect.

K. Paul Stahl. Landowners can also zone their property. These regs are subd regs and only affect someone coming in to subdivide the property. If you are not seeking to suddvide the property, then these regs will not apply to what you are doing.

Commissioner Varone. Asked KPS to correct a previous statement. Footprints you are allowed to rebuild.

Andy Skinner. Clarify statement on setbacks speaking solely on behalf of himself and no one else.

Dick Thweatt, 36 Harrison. Representing Planned Helena. Addressed growth policy. The 2001 legislature added language that said subd regs are in accordance with the growth policy. Urged the Commissioner to adopt the regs.

Lynn Boone, 638 First Street. Agrees with Mr. Thweatt. Things are not perfect, but this is a very good start. Supports moving forward with the regs.

Dan Stinson, 2002 9th Avenue. Urged the Commission to adopt and may need changes in incremental processes.

Mark Mackin, 4286 Hart Lane. Generally support of regs. Previous Legislatures have not been helpful.

Mary Clark, 118 S. Benton. Supports regs. If decide against DEQ pre-approval put in cluster development section.

Steve Skinner, 1805 N. Lamborn. Provides for reasonable standards to be adopted. Other instead of strict regs. DEQ approval prior to prelim plat approval is not a good requirement. The document does not address affordable housing needs. Encouraged the comm. to take additional time to make the less fortunate citizens able to live in Helena.

Stephanie Wallace, 906 Stuart. Representing the Consolidated Planning Board. This is a consensus document and the board moved to approve it. Recommends the draft move forward to the Commission but appreciate further work.

Phyllis Brookshire, 624 Glass Drive. Agree with comments in support of this document and should be adopted.

5 minute rule in effect for second time speakers.

Michael Kakuk. Correct vehicle to be in growth policy. Take zoning out of regs.

Janet Ellis. Clarified most of setback regulations...

Dick Thweatt. Approach county took with water body setbacks is a good approach because it requires development envelopes for each lot.

Andy Skinner. Let new director review before passing.

Derek Brown. Fire regs relation to buildings. The county has no way to enforce.

Hearing no comments, the public hearing is closed.

Commission Closing Statements:

Commissioner Varone. Remove building code appendix. Has concerns about the document's legal authority.

Commissioner Tinsley moved to render a final decision Thursday, December 23 at 9:00 a.m. Commissioner Murray seconded the motion. Commissioner Varone moved to render a decision next Thursday to all sufficient time to review all of the testimony. Hearing no second the motion to render a final decision carried 2-1. Commissioner Varone voted against the motion.

There is no other business, the meeting adjourned at 8:12 p.m.