

**PUBLIC MEETING
FEBRUARY 5, 2013
MINUTES**

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, February 5, 2013, at 9 a.m. in Commission Chambers Room 330 of the City-County Building, 316 North Park Avenue, Helena, Montana.

Chairman Mike Murray called the meeting to order at 9 a.m. Commissioner Andy Hunthausen was present. Others attending all or a portion of the meeting included Eric Bryson, George Theborge, Frank Rives, Audra Zacherl, Leo Dutton, Tammy Potter, Marni Bentley, Kyle Thomas, Misty Edwards, Cheryl Green, Rodger Nordahl, Al Knauber, Chip and Susan Anderson, Dan and Mary Ann Fierher, Mike Opar, Rocky Infanger, Carole and Billy Byrnes and Rita Cortright, Recording Secretary.

Pledge of Allegiance.

Consent Action Items. (Eric Bryson)

a. Vendor Claims Report for the Week of January 28, 2013. (Marni Bentley)

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

No public comment was received.

Commissioner Hunthausen moved approval of the consent action items and authorized the Chair to sign. Commissioner Murray seconded the motion. The motion carried 2-0.

Memorandum of Understanding Between Montana Disaster and Emergency Services and Lewis & Clark County. (Tammy Potter) (Leo Dutton)

Leo Dutton, Sheriff, reported on the MOU between the DES and the County in the amount of \$270,000, a continuation of a grant received when the Interoperability Montana Project Directors went under and the State Interoperability Governing Board was formed. Funding supports employee Roger Smith's work in mapping the statewide microwave system's T1 lines.

No public comment was received.

Commissioner Hunthausen moved approval of the Memorandum of Understanding Between the Montana Disaster and Emergency Services and Lewis and Clark County as presented. Commissioner Murray seconded the motion. The motion carried 2-0.

Resolution 2013-8 to Adopt an Alternative Delivery Method Pursuant to Sec. 18-2-501, MCA. (Kyle Thomas) The Commissioners will consider the Resolution and Alternative Delivery Method Justification Finding – Cooperative Health Center Clinic Remodel for US DHHS HRSA Grant No. C8ACS23709.

Kyle Thomas, Ast. Director of Public Works, presented the Resolution. The Alternative Delivery Method as outlined in Statute allows a local government or the state government to use a process, other than the low bid process, for awarding a contract related to construction. The Community Health Clinic received a \$5 million grant from the HRSA, a division of the U.S. Dept. of Health and Human Services. The grant award number is C8ACS23709. The Cooperative Health Center has engaged Susan Bjerke with Bjerke Architects and SMA Architects to provide

project design work on this very complex project. The facility must remain open and able to provide primary care and dental care services to the community during construction. The building is old and has been remodeled approx. three times since 1960. Plans call for constructing a 15,000 – 20,000 sq. ft addition onto the existing clinic facility. The Alternative Delivery Method allows the contractor to participate in the design process, thus helping to identify complex areas and coordinate communication and processes during construction. The contractor selected for this project will, at the end of his pre-construction services, give the County a guaranteed maximum price, and at that time, the County has the opportunity to either approve that price or put the project out for bid. Mr. Thomas recommended approval of the Resolution that was specific to the CHC Remodel project.

No public comment was received.

Commissioner Hunthausen moved approval of Resolution 2013-8 to Adopt an Alternative Delivery Method Pursuant to Sec. 18-2-502, MCA, as presented. Commissioner Murray seconded the motion. The motion carried 2-0.

Retirement Recognition – Carole Byrnes, Executive Assistant, BOCC.

Commissioner Murray recognized Carole Byrnes for her 17 years of service to Lewis and Clark County. Commissioner Hunthausen also thanked Ms. Byrnes for her service to the Commission Office and wished her the best in her future endeavors.

Carole Byrnes thanked everyone, saying it had been a great 17 years, noting her experience here allowed her to grow in work experience and professionalism and that she enjoyed every moment of a great and diverse job, working with great people.

Eric Bryson recognized Ms. Byrnes' level of detail in the work she provided for the County. He noted all the time, presents and nice things that happened behind the scenes that Carole took care of, saying they would be greatly missed. He noted that Ms. Byrnes performed many tasks that no one was aware of, and had a wealth of knowledge on many facets of the County. The Commissioners presented Ms. Byrnes with a vase of flowers.

Proposed First Minor Subdivision to be known as Missouri River Ranch Subdivision. (Applicant: Missouri River Ranch, Inc. (Chip Anderson)) (Planner: Lindsay A. Morgan). A proposed subdivision for rent or lease. Applicant is requesting the existing, single-family residence and two guest lodges be allowed to all remain as uses on the 159.43-acre tract of land, as these uses have not previously been reviewed and approved as a subdivision. The Applicant has also requested three variances from the L&C County Subdivision Regulations for the following requirements: Chapter XI.H.3.c. (Determining Costs Directly Attributable to the Subdivision), Chapter XI.Y.5. (Non-Residential Development Standards), and Chapter XI.S. (Fire Protection). (Tabled from 1/29/13) Decision.

George Theborge, Planning Director, presented in Lindsay Morgan's absence. The project was a First Minor Subdivision for two guest lodges containing four units each installed in two phases; one in 1997 and the second one within the last couple of years, without the required subdivision approvals under the Rent, Lease or Other Conveyance provisions of Montana Law and our Subdivision Regulations. Ms. Morgan had presented her Staff Report in the Commission's January 29th meeting. A public meeting was held and comments accepted from the Fire Chief for the Fire District, as well as from a representative of the trust that holds a conservation easement on the property. Three issues were discussed at length at that meeting, each of which was the subject of variance requests being decided upon today. One dealt with the

assignment of traffic impact mitigation costs under the formula contained in the Subdivision Regulations. The applicants were requesting they not be required to do a complete Preliminary Engineering Report for road improvements within that area; but instead just provide a reasonable cost estimate from a qualified engineer on which to base their proportional share of traffic mitigation contribution. Secondly, the Subdivision Regulations for non-residential development required vegetative screening around commercial buildings and parking lots. This property is located in the middle of a large agricultural area with conservation easements; only a couple of single-family residences are within any distance of it; therefore, it appeared there was no need for vegetative screening around the buildings or the parking lot. The third issue was the requirement for a fire protection water supply source. The gallonage requirement was not an issue; however, because the water source was an irrigation system, year-round access could not be guaranteed. Comments by the Fire Chief indicated he was satisfied with the proposal, including the granting of the variance. Mr. Theborge referenced the Draft Findings from the Staff Report and possible actions related to the variance requests, should they be granted. Three actions were outlined for the Commission: 1) A vote on each of the three variances; for the traffic, for the vegetative screening, and for the fire protection; 2) A vote on the Draft Findings and Conclusions which included addressing all aspects of the impacts on agriculture, agricultural water, wildlife and traffic and all of the other requirements of the Regulations; and 3) a vote on the application, itself. Mr. Theborge presented three options for the Commission's consideration: 1) Approving the application as submitted without conditions; 2) Approving the application with conditions; and 3) Denying the application if they found it did not meet the requirements.

Commissioner Hunthausen moved approval of the Proposed First Minor Subdivision to be known as the Missouri River Ranch Subdivision, as presented. Commissioner Murray seconded the motion.

Commissioner Hunthausen moved approval of the first variance request related to determining the costs directly attributable to the subdivision, and allowing the applicant to use a Professional Engineer's Estimate. Commissioner Murray seconded the motion.

Discussion –

Commissioner Hunthausen stated the variance request did meet the hardship criteria in the variance section of the County Subdivision Regulations. The motion carried 2-0.

Commissioner Hunthausen moved approval of the second variance request related to screen requirements as indicated in the Subdivision Regulations. Commissioner Murray seconded the motion.

Discussion –

Commissioner Hunthausen stated the variance did meet the criteria in the Subdivision Regulations for a variance. The motion carried 2-0.

Commissioner Hunthausen moved approval of the third variance related to fire protection as requested. Commissioner Murray seconded the motion.

Discussion –

Commissioner Hunthausen stated the variance did meet the criteria in the Subdivision Regulations under Variance hardship, and he was comfortable granting the variance based on

discussions in the January 29th meeting with the Fire Chief and the applicant's willingness to work with him. Commissioner Murray added to the record that Mr. and Mrs. Anderson had also agreed to train the Fire Department on the use of the irrigation pump on the property. The motion carried 2-0.

Commissioner Hunthausen stated his agreement with the Staff's Draft Findings and Conclusions. Commissioner Murray concurred. The motion to approve the subdivision, as amended, carried 2-0.

2013 Montana Federal Lands Access Program Capital Improvement or Enhancement Project Proposal for Beartooth Road Resurfacing. (Audra Zacherl) The project consists of 6.0 miles of structural asphalt concrete pavement overlay with corrective surface leveling course; 6.0 miles of chip seal; 6.0 miles of ditch reshaping/cleaning; culvert cleaning; 2.7 miles of roadway reconditioning and aggregate surfacing; minor widening/pullout improvements; guardrail installation; new signing, pavement markings, and roadside delineation; and spot fill slope stabilization. The property is located at 2655 Craig River Road, in Sec. 15, T15N, R3W and S1/2 of Sec. 10, T15N, R3W, P.M.M., L&C County.

Audra Zacherl presented the application requesting funding for improvements to the Beartooth Road from the Federal Lands Access Program. Lewis & Clark County's project proposal included asphalt leveling and overlay on 6 miles, roadway reconditioning and aggregate surfacing, including pullouts on 2.7 miles, and safety improvements including guardrails, signage, delineators and pavement markings. The request totaled \$3,152,754.00 from the Federal Lands Access Program. The County would be responsible for a match \$488,681.00, for a total project cost of over \$3.6 million. It is anticipated that the Beartooth RID will contribute approximately \$150,000 of RID funds to the match portion and the County Mill Levy Funding will make up the difference. Staff recommended approving the application to the 2013 Montana Federal Lands Access Program for funding improvements on the Beartooth Road and authorizing the Chair to sign the proposal for submittal.

Public comment –

Dan Fiehrer, 6377 Hwy. 12 West, Helena, Montana, asked if any provision had been made for a bicycle trail along the 6-mile roadway.

Mike Opar, 421 Graham Street, Helena, Montana, asked if a speed limit would be established on the road.

Audra Zacherl responded that the plans did not include a bicycle trail and confirmed speed limit signs would be included, in addition to guardrail, delineators and pavement markings. Funding was specific to safety improvements for the project.

Commissioner Murray added that this grant program replaced the Forest Highway Program and opened up a new area to the County for grant funding. In the past, the Beartooth Highway was not eligible for Forest Highway funding; however, it now was through this new grant program. He requested Ms. Zacherl meet with Dr. Fiehrer and Mr. Opar after today's meeting to answer any questions they may have related to the application.

Rocky Infanger, 2107 Craig River Road, Wolf Creek, Montana, spoke in support of the grant application, saying any improvement to the road would be beneficial to public safety.

Commissioner Murray added the County had been sued a couple of times related to accidents on the road and had paid a substantial amount through the County's insurance carrier.

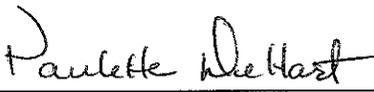
Commissioner Murray closed the public hearing on the grant application.

Commissioner Hunthausen moved approval of the Grant Application for the 2013 Montana Federal Lands Access Program Capital Improvement Enhancement Project Proposal for the Beartooth Road Resurfacing as presented. Commissioner Murray seconded the motion. The motion carried 2-0.

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

There was no further business and the meeting adjourned at 9:44 a.m.

ATTEST:

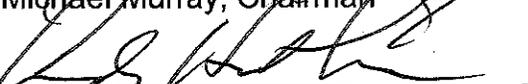


Paulette DeHart, Clerk of the Board

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Michael Murray, Chairman



Andy Hunthausen

(Vacant)