

**PUBLIC MEETING
FEBRUARY 20, 2014
MINUTES**

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, February 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 10 a.m. Commissioner Andy Hunthausen and Commissioner Michael Murray were present. Others attending all or a portion of the meeting included Eric Bryson, Katie Jerstad, George Theborge, Lindsay Morgan, Laura Alvey, Kathy Moore, Nancy Everson, Keith Hatch, Bob Fusie, Patricia, Heller, Laurie Blakley, Greg Pace, Mark Menke, Tom Rippingale, Jim Cottrill, Jerry Christison, Allen Cormany, Dean Retz, Jack Walsh, Jason Grimmis, and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson)

- a. Resolution 2014-20 Ordering a Refund of Taxes/Fees/Assessments Paid by Tim and Debbie Gunderson in the Amount of \$30.66. (Cheryl Green)
- b. Public Meeting Minutes – Jan. 16, Jan. 21, Jan. 23, Feb. 11, Feb. 13, 2014 (Rita Cortright)

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.

Draft Resolution Calling for an Election on Permanent Funding for the Lewis and Clark County Fairgrounds. (Eric Bryson) (Tabled from 2/18/14) Decision. The Commissioner will consider the draft resolution.

Eric Bryson noted this item had been tabled from Feb. 18, 2014, to allow for revisions to the resolution, based on discussions during the public meeting. Resolution 2013-21 was presented and the new paragraphs read aloud that, in essence, provided for withholding 10% of the Fairgrounds Levy revenues collected from taxpayers living 25+ miles from the Fairgrounds, to be used to offset travel or participation costs to for those same taxpayers to attend educational or community-oriented events at the fairgrounds. Rules for implementation needed to be developed.

Commissioner Murray moved approval of Resolution 2014-21, A Resolution Calling for an Election on Permanent Funding for the Lewis and Clark County Fairgrounds.

Commissioner Hunthausen seconded the motion.

Discussion –

Commissioner Murray expressed concern with using the term “permanent” as it related to the mill levy, stating his preference for a defined number of years. However, the Commission would set the mill levy annually, based on a financial report from the Fair Board.

Commissioner Hunthausen supported the resolution putting the mill levy before the voters and cited the decision of the voters in 2004 to save the fairgrounds. The permanency of the mill levy was an opportunity for taxpayers to invest over a long period of time to make fairgrounds improvements that were estimated to generate \$39 million in economic impact to the community.

Commissioner Good Geise supported the resolution, stating that if only 50% of the projected economic impact was realized, impact to the local economy would be huge and would translate into jobs. The Fair Board and Footprint Committee were recognized for their visionary work.

The motion carried 3-0.

Commissioner Murray added the Fairgrounds was contacted today by the PBS Antiques Road Show, inquiring about space and available dates to bring the show to Helena, which demonstrated the popularity of the Fairgrounds facilities and need for an 80,000 sq. ft. facility.

Grant Agreement No. RITP-14-0087 between Lewis & Clark County and Montana Dept. of Natural Resources and Conservation. (Kathy Moore) The Commissioners will consider the \$50,000 grant agreement for the Helena Solvent Site Vapor Intrusion Assessment Project to conduct a site assessment and other related actions for potential soil vapor intrusion of solvents at the Helena Solvent Site. Contract period: Feb. 15, 2014 – Dec. 31, 2014.

Kathy Moore, Division Administrator, presented the Grant Agreement No. RITP-14-0087 between the County and MT DNRC in the amount of \$50,000 to conduct a site assessment and other related actions for potential soil vapor intrusion of solvents at the Helena Solvent Site, near Malfunction Junction. Past groundwater sampling by the Water Quality Protection District revealed trichloroethylene (TCE) in the water, a chemical solvent commonly used in dry cleaning, for as a degreaser or brake cleaner. The source was not confirmed, but could be related to two dry cleaning facilities, the railroad, or other mechanical shops. The Department of Environmental Quality had sampled and analyzed the groundwater since 2004, and because TCE moves upward through the soil as a vapor, indoor air sampling was initiated in buildings near the area of groundwater contamination. Vapor mitigation systems had been installed in three structures. Last year, a DEQ well sampling outside the original area indicated contamination; therefore, DEQ would like to conduct air sampling in 27 additional buildings, both commercial and residential. The 8-9 block area extends from the Hustad Center, north and east across the railroad tracks as far as Cedar Street. DEQ will perform the work, conduct the analysis and write a report. Grant funds will cover the cost of the sampling analysis.

Laura Alvey., MT DEQ, addressed testing data, screening values and EPA indoor air standards, and the risk to workers in shared office spaces who might not have the same level of awareness of the chemical vapors. Residents in the affected area have been contacted via "access letters," informing them of DEQ's desire to conduct air sampling in both residential and commercial buildings. Participation was voluntary; some residents were reluctant to participate.

No public comment was received.

Commissioner Hunthausen moved approval of Grant Agreement No. RITP-14-0087 Helena Solvent Site Vapor Intrusion Assessment, as presented.

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

Commissary Service Agreement between Swanson Services Corporation and Lewis & Clark County's Sheriff's Office. (Jason Grimmis) The Commissioners will consider the 5-year agreement providing Swanson Services the exclusive right to sell commissary or food products, and any other items which are charged to inmates' account balances, including but not limited to debit phone cards.

Jason Grimmis, Sheriff's Office, provided background on the commissary vendor arrangement with Corrections Connections that had been in place since 2008. Sales averaged \$34,000 annually; the Detention Center received an average of \$6,800 per year in commissions. The current contract was set to expire this month. Management of the current process has proven very taxing on Detention Center Staff and resources, thus a 5-year contract was proposed with Swanson Services Corporation in conjunction with Cobra Banking Services for a touch-screen kiosk system equipped with a smart card reader designed to streamline the process. The Sheriff's Office would continue to receive a 20% commission off of commissary sales. Wiring and cable installation was projected to cost \$7,100; purchase of a 12-port switch was \$1,058; and ongoing annual cost for secured Internet access and support was \$1,800. Swanson's auditing and support costs to administer the Smart Card Program was \$120 annually. First year expenses were projected at \$10,078. Over the 5-year contract, expenses of \$17,758 and revenues of \$37,462.00 were projected.

No public comment was received.

Commissioner Murray moved approval of the Commissary Service Agreement between Swanson Services Corp. and Lewis & Clark County Sheriff's Office.

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

Cobra Combo Cashier Kiosk Site Agreement between Swanson Services Corporation and Lewis and Clark County Sheriff's Office. (Jason Grimmis) The Commissioners will consider the 5-year agreement providing a means to collect, disburse and account for the funds used by Lewis & Clark County inmates through the use of kiosks.

Jason Grimmis, Sheriff's Office, provided details on the function, operation, features and intended locations of kiosks to be used to collect, disburse and account for the funds used by County inmates. The kiosks would virtually eliminate the need for officers and staff to handle and account for cash brought into the jail by inmates through the use of a Smart Card system that could be accessed through Cobra kiosks in other locations, as well as via the Cobra Everywhere Funding program that allowed for receipt of funds from family members or friends. The system's communications feature allowed for electronic communications from inmates to staff and medical personnel, as well as those outside the jail. Staff would set control limits and restrictions on e-notes to provide facility security and protection against victim intimidation.

Commissioner Hunthausen moved approval of the Cobra Combo Cashier Kiosk Site Agreement between Swanson Services Corporation and Lewis and Clark County Sheriff's Office.

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

Commissioner Murray requested a report on today's inmate population in the Jail; 73 in-house, 46 out-of-county, for a total of 119.

Contract Extension Request – Fox Trot Estates Subdivision - II. (Applicants: Jerry and Genevieve Christison) (Planner: Lindsay A. Morgan) The Applicants request a 3-year extension of their preliminary approval until March 3, 2017. The preliminarily approved subdivision will create twelve (12) residential lots, located west of and adjacent to Lake Helena Drive. The Commissioners will consider the contract extension request.

Lindsay Morgan, Planner, presented the Contract Extension Request – Fox Trot Estates Subdivision – II on behalf of the applicants, Jerry and Genevieve Christison. Preliminary approval was granted March 3, 2011, for the 45.5-acre subdivision located west of Lake Helena Drive, west of and adjacent to Fox Trot Drive. The 12-lot subdivision will be served by individual wells, individual on-site wastewater treatment systems and utilities with access off of Fox Trot Drive. The DEQ approval for the water and wastewater system had been received. The fire protection well was in; however, the pump was not yet installed. The mailbox base, roads and power had been installed. The applicants sought Modifications to their Conditions of Approval, and once completed, they planned to complete the survey, install the pump and test the well. Staff presented options for Commission consideration.

Dean Retz, 155 All Sports Court, the applicant's representative, addressed the completed items. The Certificate of Title was ordered; the road certification was in hand from the engineer. The 314-foot well produced 350 gpm; certification would be provided with the final plat application.

Jerry Christison, 5220 Lake Helena Drive, stated his desire for a 3-year extension.

No public comment was received.

Commissioner Murray moved approval of the Contract Extension Request for Fox Trot Estates Subdivision – II to March 3, 2017.

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

Modification Request – Fox Trot Estates Subdivision – II. (Applicants: Jerry and Genevieve Christison) (Planner: Lindsay A. Morgan) The Applicants request to be allowed to go through the modification process to make a formal request for amendments to the preliminary plat and conditions of approval. Specifically, the Applicants would like to modify some internal road and easement dedication requirements. The preliminarily approved subdivision will create twelve (12) residential lots, located west of and adjacent to Lake Helena Drive. The Commissioners will consider the applicant's request to be allowed to go through the modification process.

Lindsay Morgan, Planner, presented the Modification Request – Fox Trot Estates Subdivision – II to allow applicants time to modify the plat and the following Conditions of Approval:

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

Staff's packet included the Applicants' letter addressing the three questions that were required

under the 2005 Subdivision Regulations, the conditions of preliminary approval, a vicinity map and a draft plat. Proposed changes to the plat formed the basis for the applicant's request for modification to the Conditions of Approval. Staff provided options for Commission.

Jerry Christison, 5220 Lake Helena Drive, the applicant, indicated his intention to eliminate one lot. Regarding Condition 8 the road was brought to the old standard; the crown was to the new standard, with extra gravel. The new policy allowed him to use the road as it exists.

There was no public comment.

Commissioner Hunthausen moved approval of the Modification Request for Fox Trot Estates Subdivision II, as presented.

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

Katie Jerstad recommended the Commissioners make findings as to what circumstances had changed on the ground that would require modification of conditions.

Lindsay Morgan provided details related to the elimination of Lot 13, as well as the proposed internal access road and emergency vehicle turn-around for Lot 13 that affected the Conditions of Approval. The road connecting Fox Trot Drive to Lake Helena Drive had been redesigned and relocated and affected the easement which would not be relocated to the very north end of the subdivision providing another access to Lot 13-12. Regarding Condition 8, Fox Trot Drive was reviewed and approved under the 1999 Subdivision Regulations which allowed the road to be built to the Peccia Standard. The road was actually constructed to a standard that was between the Peccia Standard and the current Standard. However, the 2005 Subdivision Regulations, which Fox Trot Estates II was reviewed under, did not allow for use of the old standard, so the applicant was requesting something that would be allowed today, but wasn't allowed under the 2005 Regulations.

Commissioner Hunthausen stated that the reasons provided by Ms. Morgan were the basis of his motion. The second agreed.

Katie Jerstad restated the provision in the Regulations that allowed the Commission to grant consideration of a Modification Request of what had previously been approved with preliminary plat approval.

The motion carried 3-0.

Public Hearing. Amended Plat of Lot 10, Block 10–Skyview Subdivision – Phase IV-B.
(Applicant: Alex Schroader) (Planner: Lindsay A. Morgan) The applicants request to reduce the side-yard utility easements along the east and west property boundaries of Lot 10 so that encroachment of the existing house and garage, located at 985 Mallard Court (Skyview Subdivision), will be eliminated. The Commissioners will hold a public hearing and consider the request.

Lindsay Morgan, Planner, on behalf of the applicant Alex Schroader, presented the request to reduce the side-yard utility easements in two locations on Lot 10 in Block 10 of the Skyview Subdivision, Phase VI-B, also known as 985 Mallard Court. Specifically, the applicant requested a reduction in the width of the side-yard utility easement along the west property boundary from 8 feet to 6 feet; and a reduction in the width of the side-yard utility easement along the east property boundary from 8 feet to 2 feet. An 8-foot side-yard utility easement

exists along the west property boundary of this property. A single-family dwelling with an attached garage and deck were currently constructed on-site. The eave of the house encroaches into this side-yard utility easement. Reduction of the easement from 8 to 6 feet would eliminate the encroachment. No utilities currently existed within the easement. In addition, an 8-foot-wide side-yard utility easement exists along the east property boundary. The garage and its eave encroach into this side-yard utility easement. The applicant is requesting a reduction in the size of the easement from 8 feet to 2 feet to eliminate the encroachment. No utilities were located within or outside of the east side easement. However, gas lines that serve both Lots 10 and adjacent Lot 11 lie west of the utility easement under the driveway for Lot 10 and then cross portions of the easement the applicant sought to eliminate. Also, the gas line for Lot 10 appears to be located under portions of the garage eave. NorthWestern Energy stated they were not in favor of amending this plat. The West Valley Fire Chief expressed strong opposition to the request. Staff provided the Commissioners with options to consider.

Discussion --

Commissioner Murray said it appeared the applicant had recourse with their Title Company, if they purchased the property and the title company didn't identify the encroachments.

Public comment --

Laurie Blakley, the seller's representative, stated that moving the easement would allow the bank to finish the loan on this property; the issue was very time-sensitive.

Commissioner Hunthausen asked if eliminating the easement just where the garage was located would suffice for the bank's need. Ms. Blakely did not know.

Commissioner Hunthausen moved to render a decision on Tuesday, February 25, at the regularly scheduled meeting.

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 11:55 a.m.

ATTEST:



Paulette DeHart, Clerk of the Board

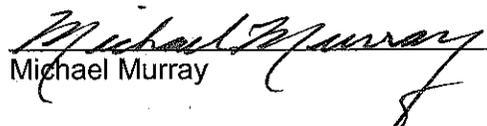
LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Susan Good Geise, Chair



Andy Hunthausen



Michael Murray