



## **PUBLIC MEETING**

May 19, 2016  
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, May 19, 2016, at 9:00 AM in Commission Chambers Room 330.

### **Roll Call**

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

Commissioner Susan Good Geise and Commissioner Andy Hunthausen were present. Others attending all or a portion of the meeting included Michele Peterson-Cook, K. Paul Stahl, Kevin Hamilton, Matt Heimel, Marni Bentley, Brent Sarchet, Kim Lloyd, Eric Merchant, Greg McNally, Amy Tenney, Kim Gardner, Ryan Casne, Ryan Werner, Jack Anderson, Linda Anderson, Ron Shields, Karen Cox, Toni Schredin, Julie Abney, Bill Abney and Nichole Nisbet, Recording Secretary.

### **Pledge of Allegiance**

Everyone recited the pledge.

### **Consent Action Items**

- a. Vendor Claims Report for Week Ending May 20, 2016. (Marni Bentley)
- b. Resolution 2016-28 Declaring County Property Surplus Property. (Amy Reeves)
- c. Resolution 2016-30 Requesting Prosecutorial Assistance in The Case of State v Thomas Sliwinski. (Leo Gallagher)
- d. SNAP-Ed Support Agreement Between Lewis and Clark County, MSU Extension and Montana Department of Public Health and Human Services. (Brent Sarchet)

Kevin Hamilton reported on the consent action items 2a-d 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 3-0 vote.

### **Contract Between Lewis and Clark County and Benefis Spectrum Medical, Inc. (tabled 5/5/16) (Laurel Bulson)**

Commissioner Murray presented the contract with Benefis Spectrum Medical in the amount of \$256,985 to provide professional medical services to Lewis and Clark County inmates. The contract period is July 1, 2016 through June 30, 2017.

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 3-0 vote.

**Task Order 17-07-6-11-028-0 to Lewis and Clark Public Health for Public Health Emergency Preparedness. (Eric Merchant)**

Eric Merchant, Division Administrator of Disease Control and Prevention, presented the task order with the Montana Department of Public Health and Human Services in the amount of \$82,707 to enhance local Public Health Emergency Preparedness and public health capacity to respond to events that impact public health. The grant period begins July 1, 2016, through June 30, 2017.

No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

**Presentation of State-Approved Chemical Dependency Services County Plan. (Amy Tenney/Kim Gardner)**

Amy Tenney of Boyd Andrew and Kim Gardner of Intermountain presented the Lewis and Clark County Plan for FY2017 to designate State-Approved Chemical Dependency Services County Plan for the provision of chemical dependency treatment and prevention services. This is a one year extension for the current plan and next year the plan will be updated for a four year revision. Boyd Andrew serves adults and their family members providing assessments, intervention, outpatient, and residential care to Lewis and Clark and Jefferson County residents. Intermountain is a non-profit agency that has Substance Use (Chemical Dependency) Treatment Services and a Co-Occurring Substance Use Services, they also provide specialized and individual treatment and alcohol and drug psycho-education services in the Helena and Kalispell communities, including the surrounding areas.

Commissioner Hunthausen reiterated that today's decision is to determine the allocation of County funding to these entities.

Amy Tenney stated the designation last year was roughly \$80,000 to Boyd and \$20,000 to Intermountain.

**PUBLIC COMMENT -**

Bill Abney stated with his experience of having employees involved with DUI's he felt that the process of counseling at Boyd Andrew was long and drawn out and would like to see people move through the system quicker so they can return to work.

Amy Tenney stated the length of stay in treatment is based upon national criteria and varies upon each person. Boyd Andrew is at 95 percent or above on their quality assurance audits and length of stay is looked at very closely. Clients are billed on a sliding scale based upon their ability to pay.

A motion was made by Commissioner Hunthausen to render a final decision on May 31, 2016 and seconded by Commissioner Geise. The motion Passed on a 3-0 vote.

**Emerald Ridge RID Intercap Loan Application. (Matt Heimel)**

Matt Heimel, Special Districts Planner, presented the Intercap Loan Application in the amount of \$75,947.36 to the Montana Board of Investments. Improvements consisting of a crack seal and chip seal for the district are estimated to cost \$75,947.36. As specified under Resolution 2015-114, a debt service assessment of \$180.95 per parcel for road improvements shall be levied for a period of seven years. No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

**Request for an Extension of the Preliminary Conditional Approval for a Subsequent Minor Subdivision Known as the Amended Plat of Lot 5 - Tillerson Minor Subdivision. (Applicants: Karen and Dallas Cox) (Planner: Greg McNally)**

Greg McNally, Planner II, presented the request for a one year extension of the preliminary approval for a three-lot subdivision located north of and adjacent to Tilly Court and east of and adjacent to Pioneer Park Drive. This Subdivision was granted conditional preliminary approval on May 18, 2010 with 20 conditions and will expire on May 18, 2016. In the Extension Request Application, the Applicant indicates the conditions of approval will be completed in one year. On May 13, 2016, staff met with the Applicant's representative, Joe Brancamp, to review all conditions of approval and the existing documentation of completion of those conditions. While it appears Mr. Brancamp and the Applicant have done work on the project, the only evidence of the full completion of a condition of approval is the DEQ approval for water and wastewater. Mr. Brancamp has now been fully briefed on the requirements of each condition of approval and his and/or the Applicant's responsibility to complete each one. Staff presumes this project is now on a path toward final approval within the year.

Commissioner Hunthausen questioned why it is taking so long to complete the conditions of approval.

Greg McNally stated in his communications with the applicant and the engineer on the project he feels one year is adequate.

Karen Cox, the applicant, stated there have been financial issues in the past and stated one year extension is all they need to complete the work.

A motion to Approve was made by Commissioner Hunthausen and seconded by Commissioner Good Geise. The motion Passed on a 3-0 vote.

**Proposed Amendments to the Map and Regulations for Special Zoning District Nos. 39 and 45. (Petitioners: Stephen and Karen Durgin) (Planner: Lindsay A. Morgan)**

Commissioner Murray read a letter from the applicant's lawyer, Richard Parish, withdrawing the petition on behalf of the applicants.

**Proposed Copper Creek Estates Major Subdivision. (tabled 5/10/16) (Applicant: Werner Nistler Properties, LLC) (Planner: Greg McNally)**

Greg McNally, Planner II, presented the subdivision and variance applications for a proposed 17-lot subdivision, located south of and adjacent to Franklin Mine Road and east of and adjacent to Head Lane. The Applicant has requested variances from the Lewis and Clark County Subdivision Regulations from the following requirements: Chapter XI.F.9 (double fronted lots); Chapter XI.G.2 (block length); Chapter XI.H.11, Appendix J.3.3 (length of dead-end roads). For the three subdivision variance applications, the Board recommended approval of the findings as submitted and conclusions of law that the proposed subdivision variance requests meet the variance criteria. The Board recommended approval of the subdivision variance applications from the following regulations: Chapter XI.F.9; Chapter XI.G.2; and Chapter XI.H.11 and Appendix J: 3.3. For the proposed Subdivision, the Board recommended conditional approval and to accept all draft findings of fact as prepared by Staff in all documents provided by Staff and that there are impacts but those impacts can be mitigated by the draft conditions of approval prepared by Staff. The Board recommended to conditionally approve the proposed Copper Creek Estates Subdivision and that all draft conditions of approval prepared by Staff be included in that recommendation. Staff also prepared a proposed condition of approval that states an additional County road easement for Franklin Mine Road needed to guarantee a full width (60 feet) County road easement which will be shown on the final plat.

Commissioner Hunthausen stated he has reviewed the record from the meeting last week and is ready to proceed to act on the item today.

Commissioner Geise stated after reviewing the staff report, variance requests, the presentations by staff and the applicant, and the draft findings of fact and conclusions of law and approval conditions, and after

considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting I move approval of the subdivision request with conditions of approval needed to mitigate adverse impacts to bring the project into compliance with regulations. The motion was seconded by Commissioner Hunthausen.

Commissioner Murray restated the motion on the floor and asked the Commission to consider whether or not to approve the requested variances based on the findings of fact and conclusions of law.

A motion was made by Commissioner Geise that after reviewing the draft findings of facts on the first variance request and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

Commissioner Geise stated that the variance request criteria are as follows: that the granting of the variance would not be detrimental to public health, safety, or general welfare or injurious to other adjoining properties, because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the standards were enforced, the granting of the variance would not cause a substantial increase in public costs, the approval of the variance would not place the Subdivision in nonconformance with other adopted regulations.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and the variance criteria, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision variance request meets the variance criteria and that we approve the variance as submitted by the Applicant. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the draft findings of facts on the first variance request and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and the variance criteria, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision variance request meets the variance criteria and that we approve the variance as submitted by the Applicant. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the draft findings of facts on the first variance request and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and the variance criteria, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision variance request meets the variance criteria and that we approve the variance as submitted by the Applicant. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts to Agriculture and Agricultural Water Users Facilities and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

Commissioner Geise addressed the two hundred foot buffer as noted in the staff report in the findings of fact in regards to the prime farmland.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed Subdivision will have adverse impacts on Agriculture and Agricultural Water Users Facilities but those impacts can be mitigated through the conditions of approval. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts to Local Services and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, I move approval of the findings as submitted. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed Subdivision will have adverse impacts on Local Services but those impacts can be mitigated through the conditions of approval. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts to the Natural Environment and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed Subdivision will have adverse impacts on the Natural Environment but those impacts can be mitigated through the conditions of approval. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts to Wildlife and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed Subdivision will have adverse impacts on Wildlife but those impacts can be mitigated through the conditions of approval. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts to Wildlife Habitat and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed Subdivision will not have adverse impacts on Wildlife Habitat. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts to Public Health and Safety and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed Subdivision will have adverse impacts on Public Health and Safety but those impacts can be mitigated through the conditions of approval. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on impacts to Cultural Resources and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed Subdivision will not have adverse impacts on Cultural Resources. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact regarding compliance with the Subdivision Regulations and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed Subdivision will not be in full compliance with the Subdivision Regulations. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact regarding compliance with Survey Requirements and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed Subdivision will not be in full compliance with Survey Requirements but the compliance can be achieved through conditions of approval. The motion was seconded by Commissioner Hunthausen.

Commissioner Geise addressed condition of approval n. that the additional county road easement for Franklin Mine Road as needed to guarantee a full width of 60 feet of a County road easement. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact regarding compliance with Utility Provisions and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed Subdivision will not be in full compliance with Utility Provisions but compliance can be achieved through conditions of approval. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact regarding compliance with Access Requirements and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the

findings as submitted. The motion was and seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed Subdivision will not be in full compliance with Access Requirements but compliance can be achieved through conditions of approval. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact regarding compliance with Zoning and Other Regulations and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed Subdivision will not be in full compliance with Zoning and Other Regulations but compliance can be achieved through conditions of approval. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

Greg McNally summarized the findings of fact that were adopted by the Commission. The conditions of approval will be needed to mitigate the findings of fact as adopted.

Commissioner Geise noted the conditions of approval that included comments and concerns that were raised. She asked about conditions 18 y and z in regards to the mining activity and well monitoring and asked for clarification on whether or not the condition is just to provide notice.

Greg McNally stated that is correct, the notice will be given to potential residents of the mining activity in regards to public health and safety and in regards to the water levels.

Commissioner Geise raised concern in regards to the language that states residents may work together but does not direct them on how to work together.

Greg McNally stated the language is to empower residents to take control if a situation arises and it will allow residents to take action and deal with the situation. He noted that monitoring the wells overtime will address concerns of water availability.

Commissioner Hunthausen stated that condition no. 18 is in reference to the restrictive covenants and notices given.

Michele Peterson-Cook stated the County is not given the authority to look at the longevity of water availability just the ability to look at the existing ability to provide water availability.

Commissioner Geise noted that annual water sampling is recommended and noted condition 18aa that speaks to this. She further added that .13 acres can be irrigated due to the water availability concerns.

Greg McNally stated the applicants also brought forward this issue and is a benefit to all to add this condition to limit the amount of irrigated land for lawn and gardens.

Commissioner Hunthausen stated the conditions address concerns brought forward by residents and the Planning Board including the off-site road, access points, approach permits and traffic.

Greg McNally stated the condition that in regards to Franklin Mine Road addresses the concern with the easement.

A motion was made by Commissioner Geise that after reviewing the draft conditions of approval for all three project phases, and after considering public testimony at the Planning Board public hearing, the

Planning Board recommendation, and public comment at our meeting, to approve the conditions of approval be amended to add that an additional county road easement for Franklin Mine Road as needed to guarantee a full width (60-feet) county road easement. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

Commissioner Geise noted that the Commission has now acted on the variance requests and adopted findings of fact and conclusions of law for the proposed subdivision. We have also adopted conditions of approval that must be met prior to final plat.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and conclusions of law and the adopted conditions of approval, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the subdivision request subject to the adopted conditions of approval. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

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

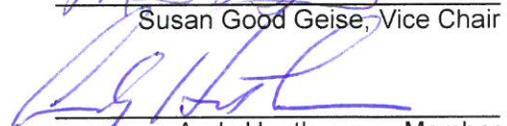
**Adjourn**

There being no further business, the meeting adjourned at 10:50 am.

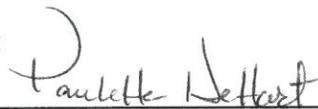
LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

  
Michael Murray, Chairman

  
Susan Good Geise, Vice Chair

  
Andy Hunthausen, Member

ATTEST:

  
Paulette DeHart, Clerk of the Board