



PUBLIC MEETING
August 17, 2017
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, August 17, 2017, at 9:00 AM in Commission Chambers Room 330.

Roll Call

Chairman Susan Good Geise called the meeting to order at 9 a.m.

Commissioner Andy Hunthausen and Commissioner Jim McCormick were present. Others attending all or a portion of the meeting included Terry Bachman, Roger Baltz, Joellen Barbagello, Bradley Brownlee, Brian Coplin, Scott Eichhorn, Laura Erikson, Lucinda Fleming, Pete Fleming, Arlene Flynn, Karie Frydenlund, Brian Garrity, John Geier, Nicho Hash, Matt Heimel, Jim Hefferman, Liz Hiltunen, Christal Ness, Tim Newman, Michael O'Neill, Claudia Schwandt, Mark Trenary, Jedediah Weber, Jesse Whitford, and Nadine McCarty, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

There were no consent action items.

Resolution 2017-105 Authorizing Submission of Application for Home Funds. (Laura Erikson)

Laura Erikson, Community Development Coordinator, presented the resolution to authorize the submission of the application and agreement to the certifications for the application to the Montana Department of Commerce HOME Investment Partnerships program. The application is on behalf of West Mont for the Farm and Gardens Group Home project. The group home houses eight individuals and is in need of renovations to include ADA compliance and certain safety issues that need modification. West Mont provides a wide-range of services for people with disabilities, including operating 13 residential facilities, 4 vocational centers. The project cost is approximately \$950,000 with the HOME application in the amount of \$277,344, a CDBG application in the amount of \$450,000. A \$75,000 grant was also awarded from the Treacy Foundation. The remaining funds will come from the West Mont reserve account and a loan up to \$145,000. Ms. Erikson noted these type of projects are required to have a local government sponsor.

PUBLIC COMMENT –

Arlene Flynn, West Mont stated they would appreciate the County's endorsement of the grant application. West Mont is one of Helena's larger non-governmental employers with over 185

employees. The farm has been in existence since 1989 but not fully ADA compliant. Some of the residents have been at the home for over 20 years. The water supply system also has to be replaced regardless of the grants and is the reason for the Treacy Foundation application that was submitted. The estimated cost for the water supply system is \$100,000 to \$110,000. A fire sprinkler system is not in the home.

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

Contract Between Lewis and Clark County and Western Montana Mental Health Center. (Laura Erikson)

Laura Erikson, Community Development Coordinator presented the contract with Western Montana Mental Health Center (WMMHC) for operations of Our Place Mental Health Drop in Center. Funding is received through the Montana Public Health and Human Services in the amount of \$60,000 annually. A request for qualification process was conducted to find a service provider to employ people and run the Drop In Center and WMMHC scored the highest in the review. There are not specifics on payment to WMMHC, as they will charge for the operations and expand the operations to seek reimbursement from the state. The contract begins upon signature through June 30, 2019.

Brian Garrity, 605 9th Avenue stated he has been involved with Our Place since its inception. It has surpassed his expectations and is very important to people with mental health issues in the community that don't have other places to go to occupy their time and to learn different skills. There are many people that come to Our Place who may isolate themselves in their residence or be out on the streets. It offers a safe comfortable place for these people where they help each other. Mr. Garrity read a letter written five years ago from a gentleman that went to Our Place frequently and stated he would visit every day if they were open.

No public comment was received.

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

Resolution 2017-100 to Levy and Assess a Tax Upon Benefited Property Within the Emerald Ridge Rural Improvement District No. 2015-5. (Planner: Matt Heimel)

Matt Heimel, Special Districts Planner, presented the resolution to levy and assess an increased special assessment upon benefited properties within the Emerald Ridge Rural Improvement District for maintenance of the road network. The proposed increase is due to a discrepancy in cost estimates utilized for creating the RID and what Public Works determined to be the actual revenue needed to fund an ongoing chip seal cycle as well as regular maintenance and paying off the existing debt for a past chip seal improvement.

The resolution of intention to create the District was adopted on June 9, 2015; the resolution to create the District was adopted on July 23, 2015 and assessments were put into place on August 13, 2015. The current maintenance assessment of \$58.28 is too low and will not be able to fund the ongoing maintenance cycle. There are five years remaining on the InterCap loan for the last chip seal project with the debt assessment at \$180.95, which will remain, not change and drop off once the debt is paid. The increase is only on the maintenance portion of the District, mainly for the next chip seal increasing the maintenance assessment to \$253.20 annually.

Commissioner Hunthausen asked how the original assessment was derived at being so low it could not prepare for a future chip seal and Mr. Heimel explained in the cost estimates used to formulate

the maintenance district the adequate amount of the square yards for the chip seal was not considered.

Jesse Whitford, Public Works Construction Coordinator, stated the chip seal is a seven year cycle. Last spring it was noticed that the rate was too low to finish out the chip seal project and \$253.20 is what would be necessary on a scheduled basis for the chip seal. Some residential areas the chip seal will last longer than the seven years depending upon the amount of traffic, with others not as long.

Commissioner Good Geise stated the County erred originally with an insufficient assessment and the adoption of \$253.20 is an unanticipated bite for some people. Mr. Whitford noted the initial residents involved in meetings when the RID was set up were aware of the correct amount and it was not carried forward.

Commissioner Good Geise asked if there could be a possibility of this RID having a nine year replacement cycle and the amount could be decreased and Mr. Whitford agreed it could be considered.

PUBLIC COMMENT -

Liz Hiltunen, Emerald Ridge, stated she is also representing her husband and Joe Stewart both who cannot attend today. She stated the increased cost from \$53.25 to \$253.28 a year was quite a shock, especially as this was misrepresented to us and they have been told of the discrepancy in the original calculation. There was never a home owners meeting, apparently it went from the board to the County and many members never voted. They were under the understanding that the amount would be \$58.25 that is 4.3 times more than what they were told it would be originally. They were told the new projected numbers for the chip seal is \$78,019; divided by seven years that amounts to \$11,145.69 per year and divided by 75 lots it amounts to \$148.61 per lot annually. When subtracting the \$148.61 from the \$253.20 that is \$104.59 overage and would like to know what is the discrepancy. It is difficult to see how some of the numbers on the spreadsheet were derived at: for example snow plowing was projected to be 20,916 for a total and at the bottom 30,596 is used. There are other numbers under the old column that have no source, you can't go back and find out how it is calculated. They also do not understand the 5% administration fee, isn't that someone's job. They do not have confidence in the numbers and ask that the Commission consider another review of the calculations, the source of the calculations and to recalculate to show accurate numbers.

Terri Bachman, 4363 Emerald Ridge Loop stated they have lived there for about 12 years. When their subdivision was started, they intended to have a very quality subdivision with acreage. When the streets were first paved Helena Sand and Gravel did a high quality job. When the chip seal was done last year it was left extremely rough and this year it is so rough to walk on it cuts the dog's feet. They would like quality and integrity for their money. When snow removal occurs they do not leave enough room for two vehicles to pass. The residents cleared the road and did so the next snow storm.

Seeing no further public comment, Commissioner Good Geise asked Mr. Helmel to start with the questions.

Mr. Helmel stated the maintenance assessment is not completely for the next chip seal, it is also meant to cover snow plowing, street sweeping, culvert cleaning, crack sealing and other miscellaneous expenses. The numbers of 30,596 refer to the square yardage of roadway and the unit price numbers come from an average of past expenses, projected expenses for work and standard industry prices. The administrative fee is stipulated under statute and the authorization to levy and assess RIDs at 5% not to exceed \$500. The fee can cover county staff time, notice advertising costs, postage.

Mr. Whitford, explained the contractor selection process for the chip seal project and gave an overview of the chip seal process and what it is meant to provide: a wearing course, skid resistance and prolong the life of the asphalt it is meant to be somewhat rough. The subdivision regulations state that the roads will be chip sealed and is done nationwide. The gradation of the rock used is up to 3/8 of an inch, typically nothing larger is used. If there is inadequate work, the first thing a resident needs to do is notify him as soon as possible.

Commissioner Hunthausen noted because there is a large increase all at once maybe doing part this year and a part the following year would be better. Commissioner McCormick agreed to have a graduated increase over time.

Commissioner Good Geise asked Roger Baltz for a schedule listing the graduated increase to the end of the chip seal life expectancy, plus a couple of years.

A motion was made by Commissioner McCormick to table the item to Tuesday, August 22, 2018 the next regularly scheduled meeting and seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

Resolution 2017-101 Levying and Assessing a Tax Upon Benefited Properties Within the Oleo Acres Rural Improvement District No. 1995-1. (Planner: Matt Heimel)

Matt Heimel, Special Districts Planner, presented the resolution to levy and assess a special assessment upon benefited properties within the Oleo Acres Rural Improvement District (RID). Mr. Heimel noted the original posting advertised the increase for developed lots going from \$60 to \$240 and the correct amount is \$90 a 50% increase.

The Resolution of Intention and to create the RID was adopted on January 12, 1995. The first assessment structure was adopted on August 31, 1995 with assessments at \$101 undeveloped lot and \$303 on a developed lot. In 1998 the rates were reduced to \$20 for undeveloped lots and \$60 for a developed lot. Public Works has determined a 50% increase is necessary to adequately fund roadway maintenance at this time. The rates would increase to \$30/annually for undeveloped lot and \$90/annually for a developed lot.

Jesse Whitford, Public Works Construction Coordinator stated the balance was \$14,907 and recently dust abatement was applied at the cost of \$4,290 bringing the current balance to \$10,617. The services the county provides is road grading and dust control. The snow plowing comes out of their Home Owners Association fund.

Commissioner McCormick asked where the inflation factor comes from and Mr. Whitford explained it is a calculator through the Department of Labor and Industry and is an established standard.

PUBLIC COMMENT -

Mark Trenary, 3425 Birkland Drive, stated there are no undeveloped lots. There is a unique situation with the RID money as well as Home Owners Association fee of \$10 for roads. The road is pretty much a gravel road right now and is maintained pretty well. Mr. Trenary thinks if the proposal is approved that he would drop the \$10 fee. Mr. Trenary asked when the new rates would be implemented.

Karie Frydelund, Property Tax Manager, stated if the RIDs are passed they will be assessed on the 2017 real estate tax bills to be billed the end of October.

Mr. Heimel stated Mr. Trenary's statement of no undeveloped lots is correct, however because the district was created with that method of assessment and the increase is still referred to on the record.

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

Resolution 2017-102 Levying and Assessing a Tax Upon Benefited Properties Within the Raven Road Rural Improvement District No. 2005-4. (Planner: Matt Heimel)

Matt Heimel, Special Districts Planner, presented the resolution to levy and assess a special assessment upon benefited properties with the Raven Road Rural Improvement District (RID) for maintenance of the road. A resolution of intention to create the district was adopted on May 17, 2005 and the district was created on June 28, 2005. The current assessment structure is \$50 annually for an undeveloped lot and \$200 annually for a developed lot. The proposed increase of 50% is recommended by Public Works bringing the assessment to \$75 annually for undeveloped lots and \$300 annually for developed lots.

Jesse Whitford, Public Works Construction Coordinator stated since the recommendation of \$300 for a developed lot he has communicated with members of the Road Association and at this time he recommends that the rate remains at \$200. A major road project to provide a better surface and minimize snow drifting is in the early stages and is anticipated to cost approximately \$550,000 equating to an annual rate of about \$550 for improvement costs. The \$200 for maintenance should be sufficient if the road is improved. The road is currently in rough shape. The money for the improvement would probably take a loan or bond and the \$550 would be to repay the money over a time period. The current balance of the RID is \$14,396. If the inflation factor was applied the rate would be \$256.72.

Mr. Whitford presented some photos showing encroachments that inhibit proper road maintenance with grading and snow plowing. The next process would be to have a community meeting to meet with as many residents as possible to see what the interest is in the road reconstruction process.

Commissioner McCormick asked about the proposed rate for undeveloped lots and Mr. Whitford stated the lots would go proportionately with the developed lots.

Commissioner Good Geise asked if there are any available payment methods to assist the residents with the costs of the reconstruction and Mr. Whitford was not aware of any grant possibility for a road of this nature, the cost would go to the residents.

PUBLIC COMMENT -

Claudia Schwandt, 5700 Norway Pines stated she represents the upper two miles of Raven Road. Raven Road is not a public road, it is privately owned. Access ingress/egress rights on each deed of each property adjacent to or crossing over Raven Road has been given to people to come and go to their lots, but has never been public. The RID was started in 2005 and they were told as a road association they would be able to vote on all increases that might happen for assessment. They changed their mind and did not inform the association that they would not be able to have any input. The snow plowing is mostly done by the residents. A good number of residents would like to know how they can rescind or vacate the RID.

Joellyn Barbagello, 6430 Raven Road stated she has lived there since 1996 and in 1997 she was a part of the group that orchestrated having a road association and is currently the secretary/treasurer. She appreciates the new recommendation for the fact that there has been no meeting with the Road Association to make this proposal. The proposal was made without

majority of the resident's knowledge until the letter was received. Ms. Barbagello strongly requested that the Commission agree with the new proposal because otherwise the increase is over 50%. Though it looks bad, there is an incredible amount of work the association has done and they have never been in debt for the road. A year ago \$13,000 was spent on the road. The road is almost 4 miles long and there are drainage issues. Certain areas have been increased that have improved it incrementally. They have been extremely prudent and fiscally responsible to do what can be done and not drive it into debt. Their population is aging with more and more fixed incomes and they are trying to work with them. Ms. Barbagello would appreciate the Commission keeping the RID at \$200. This proposal has not been brought before the residents and it needs to be.

Lucinda Fleming, 6315 Raven Road stated they have lived on the road since 1992. She questioned the RID from the beginning because it has always been a private road. The only easement on the road that she can find is a presumptive easement because of use. She does not want to eliminate her neighbors' ability to get to their property, but she does not believe she needs to allow major changes across her property. They are one of the fixed income residents. She strongly agrees there should not be an increase this year and there should be more consideration of the residents before it goes into any kind of major improvement.

Tim Newman, 6199 Raven Road stated he lives on the first quarter mile of the road. He did not understand the \$200 RID considering the bad road condition up above and the reason he did not move further up. There are residents that drive too fast and are destroying the road.

Scott Eichhorn, 6181 Raven Road, stated he has been on this road since 1983 and not far from the highway due to the elevation. The idea behind the RID was to help maintain and build the road and it falls back on the humans to be held accountable. The traffic and the speed beats the road down. Mr. Eichhorn was told there was a mining claim dispute that causes the S-turn and nothing was ever found on the mining claim. Many graders have been hired. In areas where the water has cut into the road the road could be built up, but funds are not available. A cut could feasibly be made in the road for the water to vent off into someone's pasture and would cause no harm. Mr. Kruger offered his time and equipment. Mr. Eichhorn lives below Last Chance Church and has spoken with the Pastor in the past regarding the large amount of traffic, dust and the church maintaining the dust control. The road was not sprayed this year.

Anita Angelo, 7267 Solitude Road, stated she would support Mr. Whitford's suggestion to leave the assessment at \$200. She moved into the area in 2012 and since that time the condition of the road has improved incrementally. For the County to consider anything more than the rate of inflation should not be suggested as it is disrespectful to the residents that are trying to make things work. All residents need to be included on any kind of decision on the major road improvement. Ms. Angelo discussed the balance and use of the fund with Mr. Whitford and she was told there are barely enough funds for snow plowing. Only twice in the history of the RID has more than \$1,000 been spent on snow plowing as the residents take care of this with their own equipment. This is a burden to people that don't have the deep pockets that others have. This is citizen directed and Ms. Angelo feels the whole process has been very disrespectful to the residents. The hope is the administrative fee is used to communicate better with the residents before it gets to a final decision. Ms. Angelo asked of Mr. Whitford, how the 50% increase was determined and considered reasonable.

Pete Fleming, 6315 Raven Road stated they are just above the church. They have lived there for over 20 years. Until this came up they have been told by a number of county officials and employees that it was a private road, the county had no legal way of doing anything with it, and the residents were on their own. They have done a fair job on their own. Regarding the encroachment issue, according to his deed the entire road is on his property. Mr. Fleming thought easements were supposed to be 50% on each side. The deed shows 60 feet from their fence line to the fence

line on the other side, but the road is not down the middle. Many things need to be considered. Mr. Fleming asked that the assessment be left alone at this time.

Jed Weber, lives on Solitude and stated based on what he has heard and from the association meetings this increase would cause an undue burden on those with a fixed and low income. Most of the work that is needed to keep the road functional is done by the residents. If this increase would go to the people doing the work he would be much more in favor of it. The work done by the county from what he has seen has been subpar to put it lightly. During the extreme drifting there was a couple of occasions when they could not get in or out. A contractor helped clear the road then stopped the plowing, plowed into someone's yard, wrecked the yard; destroyed the road; and clogged the ditch, to his knowledge has not been addressed. Mr. Weber stated weed spraying makes sense as long as miles of fields do not also contain weeds. A better use of the funds would be an appropriate way to address this before moving forward with an increase.

Christal Ness, Land Use Ombudsman stated she does a lot of road research, tracks road records, monitors the commission meetings and brings in appropriate records or facts for received comments.

Ms. Ness reported that Raven Road was made a county road in 2003 by resolution of the Board of County Commissioners and recorder at Book M31, page 7677 by a petition of the property owners on Raven Road. The resolution was done in coordination with the creation of the RID, because a RID cannot be created on a private road. Ms. Ness read part of the resolution clause that noted the resolution does not address or alter the maintenance provisions. The maintenance funds for the county are finite. The county can only maintain certain roads within the county and they try to maintain the roads that everyone uses and connects parts of the valley together. Ms. Ness noted people can acquire copies of the referenced document. Ms. Ness stated the county is required under state law to spray weeds along the county right-of-way and it is the responsibility of the property owner to control the weeds on their property.

Commissioner McCormick stated the Weed Board is comprised of private land owners across the county and weed management decisions are made by those land owners. The control of weeds on private property being the land owners' responsibility is one of the issues the board considers. The Weed Department is a great resource for land owners that have questions.

Commissioner Hunthausen asked if a survey was completed when the resolution was passed and the width of the county road right-of-way. Ms. Ness noted the easement is 60 foot wide, not owned in fee by the County. It does not separate or take parts of people's property, it is an easement that passes over a number of parcels. A number of surveys give a glimpse of the possible road location, but no determinative survey to undertake exactly where the lies. Most of the residents received a letter from her office requesting they remove their encroachments from approximately 30 feet center line of the road to allow for adequate maintenance and snow plowing.

Ms. Ness stated when the Certificates of Survey were platted the lots were 20 acre exemptions and were not approved subdivisions. The property divider had to file a survey showing the 20 acre parcels. Some provided for easements and many did not. No determination has been made from the recording of that document in the early 1970s as to the current road location. A survey would cost approximately \$20,000 to determine the actual road location and not a wise use of funds either the County or the RID.

Mr. HeimeI addressed the question of a vote would occur for any rate increases and he is not aware of any prior agreement or arrangement. There is a statutory provision to open any proposed rate modification to a public hearing prior to a decision being made.

Mr. HeimeI noted there are not specific provisions in statute for dissolving a RID. A policy of County staff to dissolve a RID would be the same process as to create one. Regarding no

meetings with road association prior to public notice, that is the County process authorized by statute. Members of the road association are welcome to contact the County anytime.

If there was going to be a large road improvement project that would be an amendment to the RID and have to be brought before the residents at a community meeting and follow the entire RID process. Mr. HeimeI deferred the speeding issues to county legal staff. Mr. HeimeI noted one reason the snow removal has been inadequate is the limited space to, the justification of the 50% increase is mainly inflation.

Jesse Whitford, Construction Coordinator, stated the RID was formed in 2005 with no increase since then. The current rate is at \$200 with the inflation rate at \$256.72 and Mr. Whitford initially proposed the rate of \$300 because of the poor road condition.

Nicho Hash, County Deputy Attorney, stated he does not have an answer on the speed maintenance but would get the individual's contact information to discuss later as there are legal issues when dealing with a county road adopted by resolution.

Mr. Whitford noted there is a speed sign posted by the church of 35 mph.

Upon no further testimony or comment, Commissioner Good Geise stated that public comment is now closed.

A motion was made by Commissioner Hunthausen to deny the resolution and seconded by Commissioner McCormick.

Commissioner Good Geise noted the current \$200 assessment will remain in place.

Commissioner Good Geise stated there is a motion on the table to deny the resolution. 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.

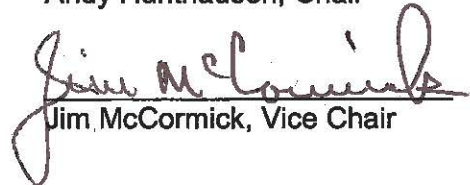
Adjourn

There being no further business, the meeting adjourned at 11:31 am.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONER



Andy Hunthausen, Chair



Jim McCormick, Vice Chair

Susan Good Geise, Member

ATTEST:



Paulette DeHart, Clerk of the Board