

**PUBLIC MEETING**  
**January 24, 2006**

Chair Anita Varone called the meeting to order at 9:00 a.m.

Commissioners Murray and Tinsley are present. Others attending all or portion of the meeting include Ron Alles, Jerry Grebenc, Paul Spengler, Cheryl Green, Marni Bentley, Greg McNally, Lindsay Morgan, Larry Hoffman, Grant Stratton, Kim Smith, Dean Retz, Ron Solberg, Crystal Ness, Fire Chief Paul Brady, Tony Prothero, Mike Opar, Roy Stock, Mary Ann R. Fiehrer, John H. Baucus, and Maria Penna.

Pledge of Allegiance. Everyone recited the pledge.

Consent Items. Ron Alles reported on the consent items:

- a. Citizen Corps Grant Application FY2006.
- b. Request for a One-Year Extension of Preliminary Plat Approval to 2/10/2007 for the Dogbone Major Subdivision.
- c. Contract and Encroachment Agreement with Dan and Linda Elliot. An approved connection from the proposed building site located on the north 6.5 feet of Lots 10, 11 and the southern most 25 feet of Lot 12, all in Block 314 of the Brooke Addition; to connect to an approved drain field located on Lot 6, Block 314 of the Brooke Addition.
- d. Resolution of Support for the "Corridor of Discovery Trail" a 95-mile Non-Motorized Trail between Helena and Great Falls. (cont. from 1/17/06)
- e. Lewis and Clark Conservation District. Verification that the Conservation District has levied its maximum county mills in the amount of \$65,500. The District intends to submit a HB223 Grant in the amount of \$4,971 for the Upper Ten Mile 223 Streambank / Habitat Project.

Commissioner Tinsley pulled consent item 'd' for discussion. Commissioner Murray moved to approve the remaining consent agenda and authorize the Chair to sign. Commissioner Tinsley seconded the motion and it carried unanimously.

Consent Item 'd'. Ron Alles reported this resolution supports the Corridor of Discovery Trail, which is a 95-mile non-motorized trail between Helena and Great Falls, known as the old Burlington Northern Santa Fe rail line. Commissioner Tinsley moved to approve the resolution and authorize the chair to sign. Commissioner Murray seconded the motion.

Commissioner Murray stated the resolution commits the County to support reactivation of the trail as a railroad line. The resolution also provides that should the railroad elect to bank their track and not be competitive or repair the damage to the trail line and wish to dispose of the track, the County is best served as an economic development proposal by a corridor trail to potentially increase service industry, such as a bed and breakfast along the trail--Wolf Creek and Craig should benefit from this. Weed control is going to be provided by the state and the trail will be patrolled and enforced by either trail marshals or fish and game wardens. This proposal will encourage new business

and create new jobs in the County.

Commissioner Tinsley stated the County is simply supporting an idea and has no statutory regulatory authority regarding the decision-making process. In the event this plan does not work, the railroad can bank that line and preserve it intact for future use as a railroad. In the meantime, we can put it to the best and highest use--as an economic development incentive and allow for public recreation to use that corridor which would be a financial benefit to Lewis and Clark County and Cascade County as well as a recreation benefit for the citizens of both counties and tourists.

Commissioner Varone stated she supports both Commissioners' comments and moved to amend Section 3 with additional language concerning enforcement of the trail as follows:

Section 3. Consistent with applicable state and local regulations that shall include, but not be limited to, continual maintenance through grants, restroom and refuse facilities, fencing if applicable, and noxious weed management.

Commissioner Murray seconded the motion and it carried unanimously.

The motion to support the resolution carried unanimously.

Tax Deed Property. Cheryl Green recommends the Commission set a minimum sales price of \$405.00 for tax deed property described as Lot 12, Block 180 of the Brooke Addition. The county previously took an undivided interest in this lot for tax deed in 1991 and the other ½ interest in October 2005. The bid amount of \$405.00 includes back taxes, legal notice, and penalty and interest.

Commissioner Varone stated the appraisal price by the Department of Revenue is \$1,434.00 and asked staff to discuss the specifics of the bid process.

Ms. Green stated a live auction is scheduled for Friday, February 17 at 10 a.m. in Room 309 of the City-County Building.

Commissioner Tinsley moved to approve the minimum sales price as recommended by staff and authorize the Chair to sign all pertinent documents. Commissioner Murray seconded the motion and it carried unanimously.

Public Hearing. Resolution to Increase the Dearborn Fire Service Area Rates. Marni Bentley reported this increase in fees was based on a request from the District. The fee will increase from \$45 to \$75 per property with an inhabitable structure or business. The resolution is contingent upon approval of a similar request in Cascade County. Staff recommends approval of the resolution.

Commissioner Murray asked for information from the fire department on how the increase would be used.

Paul Brady, 223 Cooper Drive, Cascade. Dearborn Fire Chief Brady reported the fire department has been applying for grants to purchase new equipment to replace outdated equipment. They received an \$86,000 grant to purchase a new 2005 4WD 2,000-gallon water tender--the department's share was \$18,000. They also received a grant through Cascade County in the amount of \$44,000 to update radios as required by the federal government--the department's share was \$2,200. They are left with approximately \$11,000 a year after making payments for the structure truck. Costs continue to increase to comply with government regulations, utilities and fuel costs, maintenance on vehicles, and the purchase of a new computer. In response to Mrs. Martin's letter, the insurance company has doubled the premium due to 9-11 and Hurricane Katrina. The department has an ISO rating of 9.

Commissioner Murray asked Chief Brady to explain the hierarchy of the fire department. Chief Brady stated all of the fire departments are assisted by the Rural Fire Coordinator, but the fire department is run by a board that is duly elected or appointed by the County Commissioners. All of the financial aspects go through the Board.

Commissioner Murray asked Chief Brady if the department's finances are audited as part of a regular Cascade County audit. Chief Brady stated the funds are audited every year by an independent auditor. Cascade County and Lewis and Clark County also receive a copy of the budget.

Commissioner Murray asked if the fees collected from residents in Lewis and Clark County are sent to Cascade County for disbursement to the fire department. Chief Brady stated that is correct.

Commissioner Tinsley indicated the department's need for a computer. Lewis and Clark County would be willing to donate some county computers which have been declared surplus to the fire department. Chief Brady stated there may be a new grant coming out that could get them a new computer.

Commissioner Varone asked how much additional money will be raised with the 40% increase. Chief Brady stated the \$30 fee increase was in line with other fire departments in Cascade County. Commissioner Varone would like to see how that amount was arrived at what the expenditures will be to require that amount. Did the department send out a public meeting notice soliciting input from residents regarding the proposed increase. Chief Brady stated no because it was too costly to send notices and they did not have a place large enough to hold a meeting. The department is hopeful to receive approximately \$6,000 back due to problems with the purchase of a previous water tender truck.

Hearing no other comments, the public hearing is closed. Commissioner Murray moved

to table this proposal to coincide with Cascade County. Commissioner Tinsley seconded the motion and it carried unanimously.

Proposed Major Subdivision, Preliminary Plat to be known as Elkhorn View Estates.

(Applicant, Tony Prothero) The applicant proposes to create 18 lots, each for one single-family dwelling. The proposed subdivision is generally located 1/3 of a mile east of Wylie Drive, 1/2 mile north of Canyon Ferry Road, and immediately south of the intersection of Rocky Road and M Scotty Drive. The applicant is present and indicated his willingness to proceed.

Associate Planner Greg McNally presented the staff report. The internal roads provide for an interconnected road network for future development. Lots 5, 6 and 7 have a no access restriction restricting access to Rocky Road and access only onto the proposed internal access roads. The on-site wastewater treatment system and the on-site wells are subject to review by DEQ and the City/County Health Department. The proposed internal access roads are required to be built to gravel standard Typical Section 1 with asphalt mats at the intersections with Rocky Road. M Scotty Drive will also be built to gravel standard Typical Section 1. Rocky Road and Howard Road from Wiley Drive to beyond the intersection of M Scotty Drive will be built to paved standard Typical Section 2. The subject property is located within the Prickly Pear RID. Upon final plat the 18 lots created would contribute to the ongoing maintenance of the roads within the Prickly Pear RID. All of the costs to any improvements of the roads required by this proposal would be paid by the developer and not by the members of the RID. A \$1,000 per lot fee shall be paid to the East Helena Fire District, or the applicant can provide 250 gallons per minute for 2 hours of the required volume and minimum pressure. A portion of the 100-year flood plain traverses lots 13 and 14 and is designed to accommodate development outside of the delineated flood plain. A development permit from the Lewis and Clark County Flood Plain administrator prior to any construction activity. The portion of the 100-year flood plain that crosses the property shall be shown on the final plat. The applicant requests two variances from county subdivision regulations. Variance 1 is from the requirement to reconstruct M Scotty Drive to the County standard Typical Section No. 1. Variance 2 is from the requirement to improve Howard Road between Wiley Drive and M Scotty Drive to paved standard, Typical Section No. 2. Staff recommends approval of the proposed subdivision based on the conditions outlined in the staff report. The Planning Board recommended approval of the proposed subdivision and both variances. The Planning Board also recommended adding condition 17.g requiring the applicant to indicate on the final plat that all on-site wastewater treatment systems must be pressure dosed with sand line trenches. Another change includes deleting conditions 12 and 13 dealing with the road constructions; since the variances were granted these conditions are no longer required.

Commissioner Tinsley asked if floodplain restrictions should be added as a condition of approval. Mr. Grebenc stated the Commission could simply convert the 100-year flood plain designation on the plat to a no-build zone.

Commissioner Murray asked if this proposed subdivision is within the high nitrate area

of M. Scotty Drive. Mr. Grebenc responded as part of the subdivision regulations and part of the submittal, an applicant must demonstrate substantial and credible evidence that they can comply with DEQ regulations.

Chair Varone stated a letter was submitted by the Montana Operating Engineers and Associated General Contractors Joint Apprenticeship and Training Trust saying their Board disapproves this proposed subdivision with no further explanation. Mr. Grebenc mentioned the training facility is located along Canyon Ferry Road and abuts the subject property.

The Commission recessed at 10:00 and reconvened at 10:10.

Tony Prothero, 3264 Harness Loop. Concur with the no-build zone requirement in the 100-year flood plain. He stated the training facility is concerned with increased traffic from M Scotty Drive going through their access road. Once the access easement is abandoned, some of the traffic will decrease. He did a preliminary non-degradation analysis on the nitrate levels and does not believe this area will reveal elevated nitrate levels beyond state standards. He also discussed the reasons for the variances. He has no problem with the requirement to upgrade Rocky Road to county paved road standards.

Commissioner Varone asked Mr. McNally to explain the modified language of condition 17.g by the City-County Health Department which states, "individual on-site wastewater treatment systems must comply with the Montana Department of Environmental Quality Certificate of Subdivision approval."

Mr. McNally stated the modification allows more flexibility in the design of the wastewater treatment system. The system could be installed by any of the lot owners without requiring modification to the conditions of approval.

Hearing no other comments, Commissioner Tinsley moves to render a final decision on Thursday, January 26 at 9 a.m. Commissioner Murray seconded the motion and it carried unanimously.

Request for Reconsideration of Modification of Condition of Approval No. 6 for the Amended Plat of Lot 17- Seaver Park Addition. (Applicant, Grant Stratton). The Commissioners will consider whether there is enough information to schedule a public hearing. The proposed subdivision is generally located at 3434 Beck Street.

Lindsay Morgan presented the staff report. Condition 6 requires the applicant to upgrade Beck Street to Typical Section No. 3. Currently the road is chip-sealed. Professional Engineer, Tony Prothero, believes this road could be improved to a standard better than Typical Section No. 3.

Commissioner Tinsley moved to support consideration as recommended by staff, to

schedule a public hearing to discuss reconsideration of modification of condition 6, and solicit comments and direction from the County Public Works Director regarding Mr. Prothero's findings. Commissioner Murray seconded the motion. Commissioner Varone asked if the applicant could provide some information before the vote.

Grant Stratton, 3434 Beck Street, stated he discussed this modification with his neighbors and the intent is to repair portions of the road that have deteriorated and chip seal the top which will be a better road than gravel.

The motion carried unanimously.

Amended Plat of Lots 11B2A-1 & 11B2A-2 - Big Valley Subdivision. (nunc pro tunc action) The Commissioners will consider nunc pro tunc action on a variance request pertaining to the requirement for two ingress-egress routes. The proposed development is generally located east of Applegate Drive, north of and adjacent to Jeanne Road.

Lindsay Morgan reported this subdivision was heard a few weeks ago and the Commission granted the variance to allow applicant to not have to meet the requirement for two ingress/egress routes, but the Commission actually added a condition of approval 23 that required the second ingress/egress route be provided within 4 years, which in effect denied the variance request. Staff requests the Commission either approve the variance and delete condition 23.

Jerry Grebenc stated today's action is to clarify the intent of the variance. The adjacent subdivision, North Star PUD, will likely provide the second access route into the property and staff wanted to make sure the second route is in place within four years.

Commissioner Murray moved to deny the variance. Commissioner Tinsley seconded the motion. After some discussion on the intent of the motion, Commissioner Tinsley withdrew his second and offered a substitute motion to remove condition 23, which states, "the applicant shall provide a second ingress/egress route to the previously reviewed and approved road network to the east." Commissioner Varone seconded the motion. Commissioner Murray voted against the substitute motion. The motion carried 2-1.

Public comments on matters not mentioned above. None

There was no other business and the meeting adjourned at 10:35 a.m.

LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

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Anita L. Varone, Chair

ATTEST:

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Paulette DeHart, Clerk of the Board