

PUBLIC MEETING
September 2, 2010
MINUTES

Chairman Mike Murray called the meeting to order at 9 a.m. Commissioner Derek Brown and Commissioner Andy Hunthausen were present. Others attending all or a portion of the meeting included Kelly Blake, Eric Bryson, K. Paul Stahl, Marni Bentley, Michael McHugh, Mark Simonich, Dean Retz, Dan Chovanak, Jack Walsh, John Meehan, Allison Maier, and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson)

- a. Vendor Claims Report for the Week of August 30, 2010. (Marni Bentley)
- b. Resolution 2010-270 Ordering a Refund of Taxes/Fees/Assessments Paid by Koehnke Land Company in the Amount of \$3,141.51. (Cheryl Green)
- c. Resolution 2010-271 Ordering a Refund of Taxes/Fees/Assessments Paid by Robert B. Boyd in the Amount of \$1,044.52. (Cheryl Green)
- d. Resolution 2010-272 Ordering a Refund of Taxes/Fees/Assessments Paid by Hamlin Family Revocable Living Trust in the Amount of \$36.84. (Cheryl Green)
- e. Resolution 2010-273 Ordering a Refund of Taxes/Fees/Assessments Paid by Jay and Genii Skoog in the Amount of \$44.19. (Cheryl Green)
- f. Resolution 2010-274 Ordering a Refund of Taxes/Fees/Assessments Paid by Heller Group, Inc., in the Amount of \$3,944.59. (Cheryl Green)
- g. Resolution 2010-275 Ordering a Refund of Taxes/Fees/Assessments Paid by Franklin Chambers and Richard and Ritamae Hood in the Amount of \$10.50. (Cheryl Green)
- h. Resolution 2010-276 Ordering a Refund of Taxes/Fees/Assessments Paid by Kenneth L. Davenport in the Amount of \$373.37. (Cheryl Green)
- i. Resolution 2010-277 Ordering a Refund of Taxes/Fees/Assessments Paid by Daniel and Linda Melick in the Amount of \$9.13. (Cheryl Green)
- j. Resolution 2010-278 Ordering a Refund of Taxes/Fees/Assessments Paid by Sumist LLP in the Amount of \$367.68. (Cheryl Green)
- k. Resolution 2010-279 Ordering a Refund of Taxes/Fees/Assessments Paid by Clarence McConnell in the Amount of \$18.11. (Cheryl Green)
- l. Resolution 2010-280 Ordering a Refund of Taxes/Fees/Assessments Paid by John M. Becker in the Amount of \$14.99. (Cheryl Green)
- m. Resolution 2010-281 Ordering a Refund of Taxes/Fees/Assessments Paid by Broadwater Athletic Club in the Amount of \$24.12. (Cheryl Green)
- n. Resolution 2010-282 Ordering a Refund of Taxes/Fees/Assessments Paid by James L. and Carolyn R. Sayler in the Amount of \$226.71. (Cheryl Green)
- o. Resolution 2010-283 Ordering a Refund of Taxes/Fees/Assessments Paid by John R. McQuillan in the Amount of \$12.99. (Cheryl Green)

- p. Service Order and Pricing Agreement Between Lewis & Clark County and Bresnan Communications, LLC, for EOC WIFI. Three-Year Contract for a Total Cost of \$1,798.20. (Paul Spengler)

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

No public comments were received.

Commissioner Hunthausen moved approval of the consent action items and authorized the Chair to sign. Commissioner Brown seconded the motion. The motion carried 3-0.

Request for Extension of Preliminary Plat Approval for Northstar Development, LLC, Phase VI, and Request for Approval of Amended Subdivision Improvements Agreement for Phase V. (Applicant: Dan Chovanak) (Planner: Michael McHugh) (Tabled from 8/26/10)

Michael McHugh presented a draft Amended Subdivision Agreement for Phases IV and V. The total cost for internal improvements associated with Phase VI is in excess of \$787,000. Exact cost of specifically for turn lanes in conjunction with the additional improvements to North Montana north of Lincoln Road have not been specifically worked out. Staff stated that the Improvements Agreement in the amount of \$1,054,286 would be sufficient to cover the additional costs to the improvements to North Montana.

Dan Chovanak, 1111 Billings, talked about the table of cost improvement estimates for Phase I, VI and Valley View.

Deputy County Attorney Stahl previously recommended tabling this matter so legal staff could research the legislative history and interpretation of Sections 507 and 610 on the question was the Commission required by statute to insert provisions to require that a certain condition would be done within a certain period of time in order to get the one-year extension. He did not find any requirement to include incremental improvements in an extension by contract; but, the statute does not prohibit that either.

The commission would be considering amending the subdivision improvements agreement dealing with offsite improvements that have not been completed in Phase V, and enter into a contract to extend preliminary plat approval for Phase VI for another year. Mr. Stahl stated the agreement meets all legal requirements.

Without objection, the legal opinion of the Chief Counsel for the Montana Association of Counties, and the Memorandum from K. Paul Stahl, dated September 1, were entered into the record.

Dan Chovanak stated he would begin building Phase VI this winter and final plat some time next spring. He was comfortable with the contract at hand.

Commissioner Hunthausen moved to approve the agreement and authorized the Chair to sign any necessary documents. Commissioner Murray seconded the motion for discussion.

Break 9:50 – 10:00 to allow the applicant and Mr. Retz to fax the original \$290,000 estimate for the turn lanes covered by this subdivision improvements agreement to be entered into the record. CAO Bryson read into the record total costs for Table 13 and Table 14 as it related to the subdivision improvements agreement.

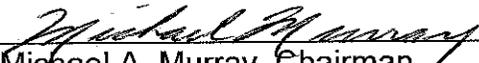
Call for public comment. None received.

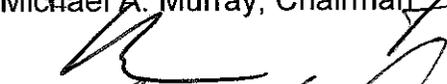
The motion carried 2-1. Commissioner Brown voted no. He stated he would like to see the subdivision move ahead, but the agreement as listed, Section 15, Phase VI Preliminary Approval, says the parties agree to preliminary approval of Phase VI of the subdivision is extended until August 25th, and the statute clearly says that we cannot do that without the proper type of agreement.

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

There was no other business, the meeting adjourned at 10.06 a.m.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Michael A. Murray, Chairman


Derek Brown


Andy Hunthausen

ATTEST:


Paulette DeHart, Clerk of the Board