

**PUBLIC MEETING
JANUARY 24, 2012
MINUTES**

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, January 24, 2012, at 9 a.m. in Commission Chambers Room 330 of the City-County Building, 316 North Park Avenue, Helena, Montana.

Chairman Andy Hunthausen called the meeting to order at 9 a.m. Commissioners Mike Murray and Derek Brown were present. Others attending all or a portion of the meeting included Eric Bryson, K. Paul Stahl, Kelly Blake, Greg McNally, Lindsay Morgan, Eric Griffin, Ron Bartsch, Scott Anderson, Bob Drake, Shawn Bryant, Delvin & Bonita Gebhardt, Ellie Parker, Jeff & Terri Claassen; Glen Hayes, Ryan Casne, Douglas Herold, Steve & Karen Moore, and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson)

- a. Cultural Trust Grant Agreement Between Montana Arts Council and Lewis & Clark County as Sponsor for Helena Symphony Society, Inc. in the Amount of \$14,220.00 for the Period July 1, 2011 – June 30, 2013. (Kathy Brammer)
- b. Independent Contractor Contract Between Lewis & Clark County and Homestead Resource Management to Complete and Perform Services at Specific Project Locations Throughout Lewis & Clark, Jefferson and Broadwater Counties Through the Tri-County FireSafe Working Group Wildland Fuel Mitigation Program. (Pat McKelvey)
- c. Pledged Securities as of December 31, 2011. (Nancy Everson)
- d. Calendar Year 2012 Commissioner Assignments and Appointments. (Eric Bryson)

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

No public comment was received.

Commissioner Brown moved to approve the consent action items and authorized the Chair to sign where appropriate. Commissioner Murray seconded the motion. The motion carried 3-0.

Creation of a Planning and Zoning District Boundary to be Known as Special Zoning District No. 48 (Timberworks Estates Phases II-VIII Planning and Zoning District).
(Planner, Greg McNally)

Greg McNally presented the staff report. The petitioners/freeholders (property owners), Frontier Builders, Inc. and Glen Hayes, have petitioned the commission to initiate the process to create this district. One hundred percent of the freeholders within the proposed district signed the petition. The area affected by the proposed change is 61.11 acres.

The boundary of the proposed district includes all of Lot 2 of the Timberworks Estates Phase I Subdivision as shown on Certificate of Survey No. 3211292. The proposed permitted uses according to the petition are only single-family homes on the lots designated as residential and only one such home shall be constructed or placed on each lot. Only commercial businesses fitting the conditions of B1 and B2 zoning are permitted on the lots designated as commercial, and only one such business shall be constructed or placed on each lot. The petitioners provided a Zoning Classification and Use Chart with their proposal. The procedure to create this district was discussed.

Public comment -

Matt Hayes, 1000 Crestwood Lane, Helena, Montana, 59602. Why a protest period since the petitioners are 100 percent of the district.

Commissioner Hunthausen and Mr. McNally responded that 76-2-101 identified a 30-day protest period must take place.

No other public comment was received.

Commissioner Brown moved to approve the creation of Zoning District No. 48 as presented. Commissioner Murray seconded the motion. The motion carried 3-0.

Task Order No. 6 to the Helena Valley Floodwaters Management Evaluation Project Agreement Dated August 16, 2011, Between Lewis & Clark County and Anderson-Montgomery Consulting Engineers for Survey of Hydraulic Features in the Helena Valley. Contract Amount Not to Exceed \$25,000. Completion Date: June 1, 2012. (Eric Griffin)

Eric Griffin reported that entering into a contact with Anderson-Montgomery was the most effective and efficient way to handle flood mitigation. He gave an overview of the field work that was included in the task order. The county received a \$10,000 DNRC-RRGL grant to assist with the project. He recommended approval of the Task Order.

No public comment was received.

Commissioner Murray moved to approve the Task Order and authorized the Chair to sign. Commissioner Brown seconded the motion. The motion carried 3-0.

Public Hearing for Proposed Modifications to Conditions of Approval for H.W. Smith Lot A-1A Amended (a.k.a. Heron Creek Subdivision) and Variance Requests from the Following Subdivision Regulations: XI.F.9, XI.H.1 and XI.Q. (Applicant: Ron Bartsch) (Planner: Greg McNally)

Greg McNally presented the staff report. The documents contained in the Commission packet were mentioned. An additional comment letter from the Gebhardtts was received. The preliminarily approved subdivision is located adjacent to Eames Lane and

Keir Lane, south of Canyon Ferry Road. The applicant has preliminary approval for a 70-lot subdivision on 129.65 acres. Of those 70 lots, 65 lots were preliminarily approved for one single-family dwelling each; one lot for 44 condominium units; two lots for parks and two lots for community wastewater treatment.

History of preliminary approval from 2007 to current was reviewed. Staff presented the two part modification request: (1) to add a condition of approval regarding Eames Lane; and (2) to present a six-phase plan. Other changes included some road design and to convert the 44 condominium units to single-family lots for 44 single-family dwellings. Three variances have been requested: to allow for double-fronted lots; to allow for deviations in road ditch design and road curvature; and to allow for the elimination of requirements for two side-yard utility easements on 14 of the proposed lots.

Modification Request #1, Improvements to Eames Lane. Under an agreement between the county and the applicant, the road shall be improved to a paved standard. The applicant proposed at the closing of the sale of any lot in the subdivision depositing \$8,000 into an interest-bearing reserve account held and used by the applicant and county strictly for the improvement of Eames Lane. The applicant would complete the project within 12 months of the sale of the 40th lot in the subdivision. Staff recommended denial based on the fact that the applicant has not provided any additional information to suggest that the Findings of Fact have changed.

Modification Request #2, Phasing and lot configurations. Upon completion of all 6 phases of the subdivision, it will include 112 lots, 109 to be used for single-family dwellings and one for parkland dedication to the county; one for wastewater treatment facility and one to be used for parkland stormwater drainage and a community drainfield. Staff recommended approval of the applicant's request to add the conditions allowing the preliminarily approved subdivision to be developed and platted in 6 phases, along with those proposed 44 lots, each for one single-family dwelling. Changes in road alignments, access redesign, and cul-de-sac design in Phase V and VI were reviewed.

The phasing plan and change of the condominium lot layout has resulted in a change of the water supply system. Proposed are 5 multi-user wells with 3 connections for each well; 44 shared wells and 3 individual wells. Staff has conditioned all utility easements. The applicant should work with staff to relocate the proposed stream out of the utility easements and to ensure the recommended changes to the preliminary plat remain in concurrence. Staff recommended a condition of approval that all electrical, gas and telephone and cable utilities or conduit be installed in Phase II and that the applicant provide planning staff an as-built survey depicting the lot lines for location of these services to be installed for Phase II.

Road improvements were reviewed for each phase. Staff recommended that the proposed road improvements include a hammerhead turnaround at the intersection of Fire Weed and Bear Grass. The applicant proposed to construct the internal access

road in Phase II to Typical Standard No. 2. For proposed Lots 69 and 71, staff has recommended that a shared driveway be installed because they will not be able to meet the separation requirements for individual driveways on those lots as proposed.

Tri-Lakes Fire Service Area has requested that all of the fire infrastructure be installed at the first phase. An additional 127.6 trips would be generated if the proposed modification to create the 44 single-family dwellings was approved, for a total of 1,090 trips out of this subdivision. The required parkland dedication for the subdivision would be reduced from the previously approved 5.88 acres to 5.76. The variances were reviewed and photos of the property were shown.

Staff recommended denial of the applicant's request to add the condition of approval regarding Eames Lane and recommended approval to plat the subdivision in phases with the additional lots subject to the conditions as modified by staff.

BREAK, 10 minutes.

Ron Bartsch, 184 Saddle Mountain Drive, reviewed the proposed plan. Phasing was the biggest change in the proposal and then discussed external roads. The intent was to continue some agricultural production on portions of this property. The benefit of phasing was to keep more of a clustered development instead of scattered. There would be no change to the fire protection provision. The center features – utilities, roads, landscape, and fire protection have been installed. He submitted his written list of comments on phasing and the conditions. There is ingress and egress to this development so this subdivision will not create sufficient impacts on the roads. He would meet with Bob Drake to discuss fire issues.

Parkland dedication: Requested removal of the condition to fence the ditch.

Condition 20: Rural Improvement District. An HOA is in place for the care and maintenance of this facility.

Condition 21.k. There are no drainages in Phase 1.

Condition 22.u. An entire drainage system has been created on this property. All of the water is channeled into the stormwater retention basin.

Condition 25.b. Trails: Requested removal of this condition. Trails have been installed and landscaping has been done.

Condition 25.e. Waste treatment facility: The system is regulated by DEQ to make certain the system runs properly.

Condition 8.b. Internal roads: Requested that the variance be accepted to what is currently installed.

Condition 10. Pathways: Requested removal of this condition.

Condition 14. Man-made streams relocating outside of the easements: No utilities have been designed to go down the waterways.

In closing, he mentioned the obstructions he has endured in developing this property – sabotage, theft of equipment, vandalizing of the underground irrigation system, being shot at, arson, trespassing, and harassment. The off-site road agreement with the

county would be retracted and then becomes a Condition of Approval rather than a separate agreement.

Shawn Bryant, Great West Engineering, representing the developer. He discussed the Traffic Impact Study done on Eames Lane, Heart Lane, and Keir. The proposal was changed from community wells to shared wells. The valve for the man-made stream can be shut off at any time and the water recirculates within the pond. Variance request is on the internal roads on Phase 2. The original approval was Typical Section No. 2 with the exception of building 6-inch ditches. They meet the standard for the hilly terrain; there was no change to density of the interior lot.

Public Hearing –

Jeff Claassen read written comments by Steve & Karen Moore, 3740 Eames Lane, who had to leave the meeting early. The Moore's opposed subversion of prime agricultural ground.

Jeff Claassen, 5545 Keir. Submitted written comments on January 12th. He asked the commission not to extend this permit and not grant the variances. Keir and Eames Lanes are not built to specifications.

Bob Drake, Fire Chief Tri-Lakes Fire. Provided additional comments about density of the structures, congested parking, and fire barriers. If the setbacks are put in, then Tri-Lakes Fire would remove the comment about the utility easements.

Matt Hayes, 1000 Crestwood Lane. Support. Find ways to work together in zoning and with developers and the county to move projects forward that help everybody.

No other public testimony was received and the public hearing was closed.

Commissioner Murray moved to incorporate the transcripts from the November 9 & 23, 2010 public meetings. Commissioner Brown seconded the motion. Commissioner Hunthausen retracted closing of the public hearing until further business was finished. The motion carried 3-0.

Greg McNally asked for clarification on testimony by Mr. Bartsch and Mr. Bryant. Mr. Bartsch previously stated that impacts of this subdivision were 200 trips per day. Based on the Traffic Impact Analysis, the estimate was 1,090 trips per day. Mr. Bartsch also indicated that his subdivision will not be impacting Keir Lane. The original Traffic Impact Analysis indicated that 100 percent of the traffic will utilize internal access roads to get to Canyon Ferry Road via Eames Lane or Keir.

There was discussion about the utility easement variances, ephemeral drainage and the irrigation ditch. Because the parkland would be dedicated to the county staff wanted to ensure it is not a safety hazard created within parkland and to make sure that the water right holder is not obstructed or impeded in any way. Another discussion was regarding

RIDs versus HOAs. Staff recommended RIDs for the continued maintenance and improvements of all the proposed public infrastructure. The county does not have a standard for a public access trail. Staff recommended that the applicant present what the trail system would look like. Staff's further recommended removing the stream from the utility easements and relocate it outside of the utility easement so work on the utilities can be done without disturbing the stream.

Shawn Bryant discussed the calculation of 200 trips per day was estimated for Keir Lane. All of the stormwater goes to the stormwater detention basin. He was concerned about repetition of conditions in each phase. The parkland requirement, wastewater approval for DEQ, and road design will all be done in Phase 1 and should not have to be addressed in each phase. Fire mitigation is provided for each phase as it becomes platted.

Greg McNally staff recommended that all mitigation take place as each phase comes on line. The phasing plan and the subdivision is one application and is simply a plan to plat and develop those lots as needed, commensurate with each phase.

The public hearing was closed.

Commissioner Murray moved to render a final decision Thursday, February 2 at 9 a.m. Commissioner Brown seconded the motion. The motion carried 3-0.

Board Appointments. (Carole Byrnes)

1. Water Quality Protection District Board – Term Expiration 6/30/12

Spencer Shropshire has resigned from his position on the board. After advertising, Eric Regensburger submitted an application to fill the vacancy to June 30, 2012, and then he can be appointed to a 3-year term.

No public comment was received.

Commissioner Brown moved to appoint Mr. Regensburger to the Water Quality Protection District Board. Commissioner Murray seconded the motion. The motion carried 3-0.

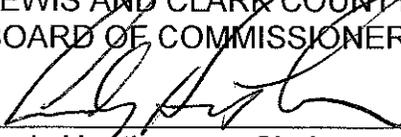
2. Canyon Creek Rural Fire District Appointment – Vacancy to May 2012 Election.

Tabled to Thursday at the request of District Secretary, Rick Grady. The Commission concurred.

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, the meeting adjourned at 12:32 p.m.

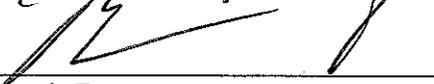
LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Andy Hunthausen, Chairman

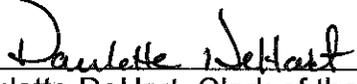


Michael A. Murray



Derek Brown

ATTEST:



Paulette DeHart, Clerk of the Board