

**PUBLIC MEETING
MARCH 8, 2012
MINUTES**

The Lewis and Clark County Commission Public Meeting was held on Thursday, March 8, 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. Commissioner Mike Murray and Commissioner Derek Brown were present. Others attending all or a portion of the meeting included Eric Bryson, Kelly Blake, Ryan Casne, Glenn Hayes, Matt Hayes, Cheryl Green and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson)

- a. Resolution 2012-33 Ordering a Refund of Taxes/Fees/Assessments Paid by Sunshine Investments LLC in the Amount of \$551.32. (Cheryl Green)
- b. Resolution 2012-34 Ordering a Refund of Taxes/Fees/Assessments Paid by Ralph Visconti in the Amount of \$12.28. (Cheryl Green)
- c. Resolution 2012-35 Ordering a Refund of Taxes/Fees/Assessments Paid by Roland and Carol Mosher in the Amount of \$53.87. (Cheryl Green)
- d. Resolution 2012-36 Ordering a Refund of Taxes/Fees/Assessments Paid by Christina A. and Jesse L. Halling, Trustees, in the Amount of \$215.57. (Cheryl Green)

Eric Bryson recommended approval of the consent agenda items.

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.

Amendment No. 1 to Reimbursable Agreement No. DTFH70-11-E-00057 Between Lewis & Clark County and US Dept. of Transportation, Fed. Hwy. Admin. Western Federal Lands Highway Division for Rimini Road Utility Relocation Project No. MT FPH 98-1(1) in the Amount of \$499,000. New Contract End Date: July 31, 2015. (Eric Griffin)

Eric Griffin reported that the amendment was related to the reconstruction of the Rimini Road and would allow the county to purchase the right-of-way for the project estimated at \$7,500 each for land purchase for 22 parcels; relocation plans for CenturyLink estimated at \$279,000; and relocation for NorthWest Energy utilities at approximately \$52,000.

No public comment was received.

Commissioner Brown moved to approve Amendment No. 1 to the Reimbursable Agreement as presented and authorized the Chair to sign. Commissioner Murray seconded the motion. The motion carried 3-0.

Utility Project Agreement Between Lewis & Clark County and NorthWestern Energy of Montana for Rimini Road Project No. PFH 98-1(1) in an Amount not to Exceed \$51,882.37. (Eric Griffin) (Tabled from 3/1/12)

Eric Griffin reported on the agreement and the breakdown of costs for utility relocation and the scope of work.

No public comment was received.

Commissioner Brown moved to approve the Utility Agreement with Northwestern Energy as presented and authorized the Chair to sign. Commissioner Murray seconded the motion. The motion carried 3-0.

Utility Project Agreement Between Lewis & Clark County and CenturyLink of Montana for Rimini Road Project No. PFH 98-1(1) Adjustment and/or Relocation of Facilities in an Amount Not to Exceed \$279,097.68. (Eric Griffin)

Eric Griffin reported that the purpose of the agreement was to authorize CenturyLink to relocate 23,350 feet of 25-pair copper cable for phone lines in the middle of the road. All of this work is anticipated to take place August through November as soon as all of the right-of-way agreements were signed. He thanked all of the partners involved in this project.

No public comment was received.

Commissioner Brown moved to approve the Agreement with CenturyLink as presented and authorized the Chair to sign. Commissioner Murray seconded the motion. The motion carried 3-0.

Public Hearing for Proposed Modifications to Conditions of Approval for the Timberworks Estates Subdivision, Phases II-VIII and Variance Request from Chapter XI.H.3 of the Subdivision Regulations. (Applicant: Frontier Builders, Inc.) (Planner, Greg McNally) (Tabled from 3/1/12)

Commissioner Murray stated that on March 6 he received a call from Mr. Tom Harrison, who he assumed was opposed to this proposal. He was upset and threatened to sue and used very foul language. If someone threatens to sue and drops the f-bomb, the conversation is over and Commissioner Murray hung up on him.

Commissioner Brown stated that he received a similar phone call from Mr. Harrison. He

essentially reiterated his comments in the public meeting. No ill will towards the developers, but quite a bit of ill will about his alleged treatment by the County during his own project.

Greg McNally addressed some of the items that were discussed on March 1st.

- The right-of-way on Lincoln Road is 105 feet wide. The intersection is not quite centered within that right-of-way and is located more to the north of center.
- Kim and Tom Harrison spoke about their subdivision, the Lincoln Road RV Park and the Grand Valley Estates. They indicated that they were not allowed to provide a Subdivision Improvements Agreement for their wastewater treatment system. According to the approval letters for both those subdivisions did include the wastewater treatment system as an item that could be guaranteed within a Subdivision Improvements Agreement and they did an Improvements Agreement and bonding for their wastewater system.

Discussed ensued pertaining to a trigger point for a financial guarantee for the left-turn lane. Ryan Casne handed out and read aloud a letter from Abelin Traffic Services responding to information that Commissioner Brown had requested. "It is estimated that King Post Loop will meet the warrants for a designated left-turn lane when Phase II of the development reaches 40% build-out."

Examples of condition language to satisfy the conversations regarding four condition modifications that the applicant has requested: 1) to allow for the financial guarantee of the pro rata share of off-site road improvement costs.

2) Part B., to allow MDT the sole discretion to require improvements to the Lincoln Road/N. Montana intersection. The intersection of N. Montana and Lincoln Road is under the sole jurisdiction of the MDT for a distance of 52.5 feet north and south of the section line.

Example condition language: The applicant shall participate in MDT's system impact process in order to evaluate the development's impact on this intersection and MDT's overall transportation system. The applicant shall comply with all MDT requirements, including physical improvements, monetary contributions and/or dedication of real property to facilitate improvements to the Lincoln Road/N. Montana intersection and any other part of MDT's transportation system that MDT feels is negatively impacted by the proposed development.

3) To allow for a financial guarantee of the left-hand turn lane at the intersection of N. Montana Avenue and Kingpost Loop. The letter from Bob Abelin puts a trigger on this.

Example condition language: Regardless of financial guarantee, if any, construction of the left turn deceleration lane shall be completed prior to development of the 9th lot within Phase II.

4) Part D. Provide clarification that the wastewater collection and treatment system can be financially guaranteed.

Example condition language: "If either the central wastewater conveyance or

wastewater treatment system are financially guaranteed, the buy-sell agreements for each lot sold during this period shall contain the following disclosure: The wastewater treatment system serving Timberworks Estates is not currently complete and cannot accept sewage flow from any residence or other facility. Per ARM 17.38.101(4) a person or party may not connect to a public wastewater treatment system prior to the system being certified as complete by a licensed professional engineer. The developer will inform the buyer when the system is complete and connections can be made." He expects it would take approximately 4 months to have a functional system. He did not object to having it operational within a year to two years. The applicant agreed to financial guarantee for three years on development of N. Montana Avenue.

Eric Bryson stated that the County was perfectly entitled to enter into a mutually agreed upon contract with a developer to do improvements.

Applicant, Glenn Hayes, Wolf Creek, stated he desires to speed this up.

The public hearing was closed.

Commissioner Murray moved to render a final decision on March 15th. Commissioner Brown seconded the motion. The motion carried 3-0.

BREAK: 10 minutes

Public Hearing. Resolution 2012-37 Establishing Board of County Commissioners' Rules of Procedure. (Eric Bryson)

Eric Bryson reported that based on the public comment that was received and the discussion, both in this public hearing and the last public hearing, he recommended that the Commission move to amend and adopt the Resolution. Other than making some grammatical changes, he reviewed the suggested changes to the draft Commission Rules of Procedure under Section A. Presiding Officer of the Board, Section B. Meetings; and Section C. Powers and Duties, 2.a.

Hearing no public comment, the public hearing was closed.

Section A. Presiding Officer of the Board, 2nd paragraph - Commissioner Brown moved to strike the third sentence that says the Chair may second any item of business before the Commission but may not offer motions without passing the gavel to another member. Commissioner Murray seconded the motion. Commissioner Hunthausen voted No; the sentence should remain as is. The motion carried 2-1.

Commissioner Brown moved to the last word at the end of the first paragraph, to strike Chairperson and say the "Chair." Commissioner Murray seconded the motion. The motion carried 3-0.

Section B. Meetings, 1st paragraph – Commissioner Brown moved to reword the last

sentence to say, "The conduct of all Public Meetings and Hearings will be generally according to *Robert's Rules of Order (as revised.)*." Commissioner Hunthausen seconded the motion. Commissioner Murray voted No. The motion carried 2-1.

Section C.2.a. Powers and Duties/Agenda – Commissioner Brown move to change the sentence to say, "Any member of the Commission may place an item on the regular agenda." Commissioner Hunthausen seconded the motion for discussion. This is the practice that the Commission has been following. Commissioner Hunthausen and Murray voted No. The motion failed 2-1.

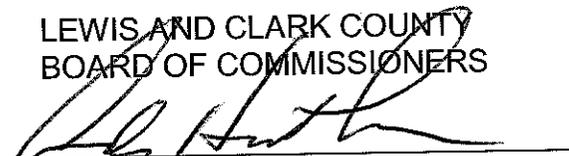
Section C.2.b. Powers and Duties/Agenda – Commissioner Brown moved that the second sentence say, "Consent Agenda Items shall be acted on as a whole and not considered individually." Commissioner Murray seconded the motion. The motion carried 3-0.

Commissioner Murray moved to approve the document as amended. Commissioner Brown seconded the motion and voted No. He cannot support the document with the provision that a single Commissioner cannot put something on the agenda. The motion carried 2-1.

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 11:07 a.m.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Andy Hunthausen, Chairman


Michael A. Murray

Derek Brown

ATTEST:



Paulette DeHart, Clerk of the Board