

**PUBLIC MEETING  
JANUARY 17, 2013  
MINUTES**

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, January 17, 2013 at 10 a.m. in Commission Chambers Room 330 of the City-County Building, 316 North Park Avenue, Helena, Montana.

Chairman Mike Murray called the meeting to order at 10 a.m. Commissioner Hunthausen was present. Others attending all or a portion of the meeting included Eric Bryson, George Theborge, Paul Stahl, Frank Rives, Marni Bentley, Melanie Reynolds, Karen Lane, Laura Erikson, Mary Cheryl Beeby, Emily Brand, Christal Ness, Chancey Andrews, Walt and Jennifer Nelson, Tom and Rena Carlson, Ben Brouwer, Melinda Barnes, Gary Bertellotti 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 January 14, 2013. (Marni Bentley)
- b. Resolution 2013-5 Ordering a Refund of Taxes/Fees/Assessments Paid by Sheree J. Mills in the Amount of \$813.16. (Cheryl Green)

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

No public comment was received.

Commissioner Hunthausen moved approval of the consent action items. Commissioner Murray seconded the motion. The motion carried 2-0.

Recognition of Citizens Who Encouraged Bicycling and Walking in 2012. (Laura Erikson, Karen Lane) The Commissioners will recognize Mary Cheryl (M.C.) Beeby, Emily Brand and Diedra Klobberdanz.

Laura Erikson recognized Mary Cheryl (M.C.) Beeby, Emily Brand and Deidra Klobberdanz for their commitment to and success in making our community a safe place for kids to walk or ride a bike to school. Mary Cheryl (M.C.) Beeby founded and chairs the Helena Safe Routes to School Committee, a group of parents, teachers, City and County law enforcement officers, Health Department and County Staff. This group works to secure funding for increased enforcement of traffic laws in school zones, as well as increased educational programs directed at involving more kids in walking and biking to school. In 2011 and 2012, she facilitated the "Recycle Your Cycle" event which helps get bikes in the hands of people who need them. In the '80's and '90's M.C. served as Missoula's bicycle and pedestrian coordinator before moving to Helena where she worked as a traffic safety specialist for the Office of Public Instruction. More recently she worked with volunteers to launch "Journeys from Home," a statewide organization that helps children become competent and confident while traveling under their own power. As Executive Director of "Journeys from Home" she coordinated statewide trainings and workshops. Ms. Erikson presented Ms. Beeby with an award.

M.C. Beeby thanked the County for their past support of the Safe Routes to School Grant and Laura Erikson's efforts, noting their support helped secure bicycles and training and also supported coordination with law enforcement in the community.

Laura Erikson recognized Emily Brand and Deidra Kloberdanz who teamed up this fall to coordinate four "walking school buses" that served their neighborhood school, Central School. They signed up parent volunteers to walk with groups of kids to school through the entire month of October; provided parents with route maps, lists of participating kids, reflective vests and emergency numbers for each of the children. Emily and Deidra's work as organizers gave parents an opportunity to become better acquainted. Ms. Erikson thanked Emily Brand and Deidra Kloberdanz for their work on behalf of Helena's kids and the community.

Emily Brand thanked the Safe Routes to School committee, the Helena community and residents of the County for doing so much to help kids be healthy and strong. She expressed appreciation for everyone's efforts to make roads walkable and neighborhoods close, safe and wonderful places to grow up.

Independent Contractor Contract Between Lewis & Clark City-County Health Dept. and Strategies 360 for Video Production Focused on Safe Driving Around Bicyclists and Pedestrians in the Amount of \$1,500 for the Period Jan. 17 – April 30, 2013. (Karen Lane)

Karen Lane presented the contract with Strategies 360 to produce a safety video on safe driving around bicyclists and walkers.

No public comment was received.

Commissioner Hunthausen moved approval of the Independent Contractor Contract Between Lewis and Clark County Health Dept. and Strategies 360. Commissioner Murray seconded the motion. The motion carried 2-0.

Contract and Encroachment Agreement Between Lewis & Clark County and Chancey Andrews and Jennifer Nelson, Owners. (Christal Ness) Large rocks have been placed in the public access easement, along, but set back from the road surface of Margaret Lane, extending from the eastern most driveway approach for 7850 Margaret Lane, south to where the road turns to the west, Lot 5d, Halliday Major Subdivision No. 2, also known as 7850 Margaret Lane, Sec. 18, T11N, R3W, Helena, Lewis & Clark County, Montana.

Christal Ness, County Permit Coordinator, presented the Contract and Encroachment Agreement for Chancey Andrews and Jennifer Nelson in the Halliday Major Subdivision based off of Margaret Lane. Rocks had been placed by them in the ditch alongside the road. Several slides of the property were viewed showing the general vicinity of the Halliday Major Subdivision, located north of Lincoln Road, west of North Montana, just off of Valley View Road. An overview aerial shot of Margaret Lane, coming down off of Valley View Road, was displayed, as was a copy of the Final Plat for the Halliday Major Subdivision showing the 50-foot public access easement as it transcends south from Valley View Road and then heads west and ends into a cul-de-sac at the end of Margaret Lane. Photos were shown of Margaret Lane showing the placement of the rocks in conjunction with the road surface. No parking signs were visible in the photos. Ms. Ness explained that Chancey Andrews and Jennifer Nelson requested an Encroachment Agreement to allow the rocks to remain alongside the road in furtherance of their ability to start some vegetation growing in that vicinity. Included in the BOCC meeting packet were comments from County Public Works relative to their inspection, as well as a letter from the applicants requesting that the rocks be allowed to remain alongside Margaret Lane.

Public comments –

Chancey Andrews, 7850 Margaret Lane, Helena. Displayed a video showing the location of

rocks along Margaret Lane, explaining the rocks were placed there to preserve the road surface and the drainage from future vehicles cutting the corner and posing a detriment to the road surface, as well as the drain features that pull the water into the corner of the road. Rock placement had ceased when a complaint was received and he was seeking resolution of the situation. He reported contacting neighbors and said all but one had no issues with the rocks. It was his desire to plant grass and install a sprinkler system in preparation for selling his property. He requested approval of the Contract and Encroachment Agreement and expressed his willingness to work with the Commission to resolve the matter.

Commissioner Murray referenced a letter received this morning from Tom Steyaert, 7855 Margaret Lane and requested entering the letter into the public record without objection. No objections were raised.

Tom Carlson, 7865 Margaret Lane, Helena. Requested the Commission not approve the Contract and Encroachment Agreement as he stated the road was a 50-foot public access easement. Mr. Carlson provided handout copies of Frank Rives' Staff Report dated October 30, 2012.

George Theborge offered clarification, stating the report was Frank Rives' original investigation report that documented the conditions in the field and informed the current applicants of their options for resolving the unauthorized encroachment of the rocks into the right-of-way. He explained that subsequent to that, the applicants came in, met with staff, and pursued the Encroachment Agreement that was before the Commission today.

Tom Carlson contended the reason that Mr. Andrews and Ms. Nelson were requesting the Encroachment Agreement was not for landscaping, as he is proposing, but, in fact, to prevent parking on the public access easement, which he said was an impermissible restriction of the purposes of the use of this easement. In Mr. Andrews' letter dated November 12, 2012, he specifically states that the reason for putting the rocks in the public access easement was for curb appeal of the property. Mr. Carlson said that was in direct contradiction to the inspection report prepared by Mr. Rives which stated, according to the County Permit Coordinator, that Mr. Andrews placed the rocks to deter neighbors from parking in the right-of-way and on his property. He submitted that if curb appeal was, indeed, the argument for the rock placement, that contradicted other aspects of the property that deter from curb appeal, such as "no trespassing," "no soliciting," "private," "private drive," and "no parking" signs along the property. He felt that was an unwelcoming presentation that detracted from the entire neighborhood. He added that the purpose of the easement was to benefit all members of the subdivision equally and Mr. Andrews should not be permitted to unilaterally restrict any other member's use of this easement. He asked who had granted permission Mr. Andrews to post "no parking" signs in this public access easement. He also took issue with Mr. Andrews' claim that grass had been planted and killed off by traffic, and stated that Mr. Andrews, his neighbors and/or guests were driving through the easement on a drive-thru driveway. He expressed concern with the close proximity of the rocks on the inter curve of the road, citing the dead-end cul-de-sac and the restriction of access, possibly causing a public safety issue in the event that emergency vehicles or rescue vehicles needed to access the area. Mr. Carlson concluded by stating his support for allowing Mr. Andrews to place landscaping rocks on his property as long as they were outside the public access easement. He added all members of the subdivision have equal right to the use of this easement for its intended purpose, and Mr. Andrew's attempt to restrict their use for this intended purpose should not be allowed.

Gary Bertellotti, 7845 Margaret Lane, Helena. Concurred with Mr. Carlson's reasons for opposing the Contract and Encroachment Agreement. He commended Mr. Andrews and Ms.

Nelson for trying to improve the quality of their curb appeal, but said this was not the right approach as the rocks detracted from the curb appeal and created a potential public access hazard.

Jason Grimmis, Margaret Lane, Helena. Stated his opposition to the Agreement based on public safety issues and access for emergency vehicles into and out of the cul-de-sac.

Paul Stahl requested that Jesse Whitford's comments be read into the record.

Christal Ness explained that, as part of the potential encroachment contract process, if a public access easement or a County road easement was involved, those applications were forwarded to County Public Works for inspection and comment. She quoted from Mr. Whitford's e-mail regarding the rocks in the easement on Margaret Lane: "I looked at the encroachment on Margaret Lane this afternoon. This is not a county maintained road, therefore the rocks pose no problem to county forces. The rocks are approximately 1' in diameter. They are located far enough off the shoulder as not to be a problem for any contracted road maintenance, or to the traveling public. There were no vehicles parked in this area at the time I was there."

Rena Carlson, 7865 Margaret Lane, Helena. Noted that Mr. Rives' report did indicate that the rocks posed a traffic hazard, in particular, at the corner. She referenced the specific diagrams that showed measurements of how far these rocks encroached into the access easement. She was requesting the rocks be placed back beyond the public access easement. She noted that when the rocks were originally placed, she and her husband took a copy of the Plat and met with Mr. Andrews, advising him of the easement issue and requesting he move the rocks back out of the easement. She also requested clarification on the "no parking" issues, stating that their property had very limited access and on occasion, their guests park along the roadway. On one occasion, Mr. Andrews called and reported them to the Sheriff's Department and they were requested to move the vehicle.

Commissioner Hunthausen asked Mr. Andrews if he would be willing to compromise on the distance the rocks encroached into the easement, and Mr. Andrews concurred.

Commissioner Hunthausen moved to table the item and render a decision at the Public Meeting on Tuesday, January 22, 2013. Commissioner Murray seconded the motion. The motion carried 2-0.

Public comment on any public matter within the jurisdiction of the Commission that is not on the agenda above.

Announcements:

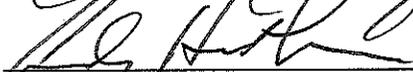
Valley Flood Plan meeting, Thursday, January 24, 2013, 6:00 p.m. at the West Valley Fire Hall.

Eric Bryson advised the Commission of his intent to make two mid-year budget corrections; documents were made available following the meeting.

There was no other business and the meeting adjourned at 10:40 a.m.

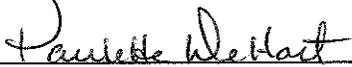
LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
Michael A. Murray, Chairman

  
\_\_\_\_\_  
Andy Hunthausen

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(Vacant)

ATTEST:

  
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Paulette DeHart, Clerk of the Board