

**PUBLIC MEETING  
JANUARY 29, 2013  
MINUTES**

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, January 29, 2013, at 9 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 9 a.m. Commissioner Andy Hunthausen was present. Others attending all or a portion of the meeting included Eric Bryson, George Theborge, Michael McHugh, Karen Lane, Lindsay Morgan, Russell (Chip) and Sue Anderson, Chris Phelps, Rocky Infanger, Al Knauber, and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson)

- a. Contract Between Montana Tobacco Use Prevention Program, Helena Brewers Baseball Organization and Lewis & Clark County Health Dept. Tobacco Prevention Program in the Amount of \$1,000 for the Summer of 2013. (Karen Lane)

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

No public comment was received.

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

Professional Services Contract Between Lewis & Clark County and Matrix Design Group. (Planner: Michael McHugh) The Commissioners will consider the Contract for the Montana Army Reserve National Guard Joint Land Use Study (JLUS) in the amount of \$160,000 for the period 1/29/13 – 12/1/13.

Michael McHugh presented the Professional Services Contract with Matrix Design Group for completion of the Montana Army Reserve National Guard Joint Land Use Study in the amount of \$160,000. The contract covers the period of January 29 through December 1, 2013. Funding was provided to Lewis and Clark and Broadwater Counties from the Office of Economic Development in the amount of \$160,000. The Study will be done in a collaborative process with the Dept. of Defense, the Montana Army National Guard, Broadwater County, Lewis & Clark County, the cities of Helena, East Helena and Townsend. The plan will be advisory, and will identify and make recommendations that will avoid and mitigate incompatible land uses by supporting economic development, and may be incorporated in future amendments to Growth Policies. This was a competitive process. The study is designed to look at the compatibilities between the Military Training Facilities, both in Lewis and Clark and Broadwater Counties. Lewis and Clark County will be the primary lead agency on this collaborative effort. Public input is a major component and there will be multiple stakeholders involved, including the Elkhorns Working Group, Prickly Pear Land Trust, numerous large property owners adjacent to the area, members of the Planning Boards of both Lewis & Clark and Broadwater Counties, and elected officials from all of the communities. The bid provided by Matrix Design Group, Phoenix, Arizona, totaled \$158,000; which leaves a little excess in the event there is an overage. Local groups will be comprised of two committees: a policy group that will include the Helena Regional Airport members, elected officials from all the communities and some stakeholders; and a

technical committee that will provide background information and work on a day-to-day basis with the consultant, Matrix Design Group. A Memorandum of Understanding has been signed by all communities involved. Staff recommend signature of the contract.

No public comment was received.

Commissioner Hunthausen moved approval of the Professional Services Contract Between Lewis & Clark County and Matrix Design as presented and authorized the Chair to sign. Commissioner Murray seconded the motion. The motion carried 2-0.

Public Hearing. Proposed First Minor Subdivision to be known as Missouri River Ranch Subdivision. (Applicant: Missouri River Ranch, Inc. (Chip Anderson)) (Planner: Lindsay A. Morgan). A proposed subdivision for rent or lease. Applicant is requesting the existing, single-family residence and two guest lodges be allowed to all remain as uses on the 159.43-acre tract of land, as these uses have not previously been reviewed and approved as a subdivision. Applicant also requested a variance from the L&C County Subdivision Regulations for the following requirement: Ch. XI.H.3.c. Determining Costs Directly Attributable to the Subdivision. The property is located at 2655 Craig River Road, in Sec. 15, T15N, R3W and S1/2 of Sec. 10, T15N, R3W, P.M.M., L&C County.

Lindsay Morgan presented the staff report. This is a proposed First Minor Subdivision to be known as the Missouri River Ranch Subdivision, located at 2655 Craig River Road. The property lies west of and adjacent to the Missouri River, and east of and adjacent to Craig River Road. An application had been submitted to the Planning Office requesting that two 4-unit guest lodges already located onsite be allowed to remain as uses on the property, since the uses had not previously been reviewed as a subdivision for rent or lease. The applicant has requested three variances from the Subdivision Regulations: 1) Ch. XI.H.3.c. (Determining Costs Directly Attributable to the Subdivision); 2) Ch. XI.Y.5. (Non-Residential Development Standards; and 3) Ch. XI.S. (Fire Protection). Direct access to the property is off of Craig River Road and the property is currently served by a multi-user well, three onsite wastewater treatment systems and utilities. The property is currently developed with a single-family residence, two guest lodges and some out buildings, and portions of the property are utilized for agricultural purposes. The property slopes down to the east and flattens out; there is a raised railroad bed that transects the property from north to south. Where the property abuts the Missouri River, wetland areas are located on or adjacent to the site. Native grasses are the primary plant species along with 60 acres of barley production. Zoning was not present on the site or on the adjacent property and none was being proposed. A conservation easement had been placed on the property and according to the terms of the easement, the grantor decides and intends to preserve and maintain the natural elements and the ecological, scenic and aesthetic and open space values of the premises by the continuation of land uses that will not interfere with or substantially disrupt the natural elements or the workings of the ecosystem. Such uses include farming, ranching and other agricultural uses, hunting, fishing, trapping or other recreational uses, the management and development of habitat and of the resources involved in those activities, guest ranching, bed and breakfasts such as in this case, and mineral exploration and extraction consistent with the terms of the easement. Today's public meeting was advertised in the *Independent Record* and letters were sent to adjacent landowners and to appropriate agencies notifying them of this proposal. All comments received had been previously attached to the Staff Report, with the exception of those from Paul Spengler, Floodplain Administrator. Ms. Morgan noted that, with regard to the Traffic Impact Study, if specific segments of Bridge Street and Craig River Road were not certified as meeting County Standards, the applicant would be required to pay the County the subdivision's percentage of impact for the costs of improving these roads. A map showing the applicant's ingress/egress

route on the property was displayed. The Traffic Impact Study that was submitted with the Subdivision Application doesn't address that the southern guest lodge wasn't taken into account for its impact on Bridge Street or on Craig River Road. Nor, does the Traffic Impact Study address any traffic going south on Craig River Road for either guest lodge, from the northernmost driveway approach into the Missouri River Ranch Subdivision to the southernmost property boundary of the subdivision. Because of this, an updated Traffic Impact Study should be required prior to final approval to determine the actual percentage of impact that was created from this subdivision.

Ms. Morgan addressed the Fire Protection System next. The property is located in the Wolf Creek/Craig Fire Service Area and according to the Fire Chief, the only water source for the Craig Area comes directly out of the Missouri River near Craig Bridge. The Missouri River Ranch Subdivision is classified as a Class II subdivision which requires a water supply and facilities that are sufficient to provide for 250 gpm for two hours. The applicant has modified the property's irrigation pumping system to allow for direct connection to the fire department's trucks. According to the application, the irrigation system has the ability to pump approximately 750 gpm with a pressure of over 40 psi. The applicant met onsite with the Fire Chief for the Wolf Creek/Craig Fire Service Area, and the Fire Chief commented that it was unknown if the fire protection system would be operational in extremely cold conditions. He also expressed concern that the system might not be accessible year round. A further concern was that access would involve driving large fire apparatus between onsite buildings; therefore, he requested the applicant provide an alternate route to this system located away from these existing buildings. The applicant was requesting a variance from the County Subdivision Regulations regarding the requirement that the fire protection source be usable and accessible year round. Ms. Morgan displayed a copy of the 100-year floodplain map and noted that in the event of a 100-year flood event, the fire protection system could be under water, thus preventing its use in an emergency.

Ms. Morgan addressed the variance request related to determining costs directly attributable to the subdivision. The applicant was requesting a variance from the Subdivision Regulations for the requirement to do a Preliminary Engineering Report for Craig River Road from the southernmost property boundary of the subdivision to Bridge Street, and also for Bridge Street from the east side of the intersection with Craig River Road to the west side of the westernmost approach onto I-15. If the variance were granted, the applicant would instead have a professional engineer provide an estimate of the costs to bring these road sections up to County Standards, Typical Section 1 for Craig River Road, a gravel standard, and Typical Section 2 for Bridge Street, which is a paved standard.

Ms. Morgan addressed the variance request related to the non-residential development standards. Because the two guest lodges are non-residential uses, natural screening through the use of trees or shrubs must be implemented around each of the guest lodges and their associated parking areas to reduce visual impacts to adjacent uses. If the variance were granted, the applicant would not be required to meet this requirement.

Ms. Morgan addressed the variance request related to fire protection requirements. According to the County Subdivision Regulations, a proposed fire protection system must be usable and accessible year round. If the variance were granted, the water source would still be provided by the applicant; however, it might not be usable or accessible year round.

Excepting the variance requests, Ms. Morgan stated the application for the proposed subdivision met the requirements of the County Subdivision Regulations. She outlined three options for the Commission's consideration: 1) Granting preliminary approval for the subdivision; 2) Granting preliminary approval subject to the conditions recommended in the Staff

Report; or 3) Denying the proposed subdivision. Ms. Morgan said in reviewing the four criteria for granting a variance, it did not appear that the three requested variances could meet the criteria listed in the Subdivision Regulations.

Commissioner Hunthausen asked for clarification on the existing buildings and their uses. Ms. Morgan explained that, as a requirement of the conservation easement, they were allowed to use existing buildings on the property for guest lodges or for a bed and breakfast. New buildings were prohibited on the property, but building on or remodeling on an existing footprint was allowed. The southern guest lodge was a remodel and the northern guest lodge was removed and replaced in the same footprint. Currently, the only approved use was for the house. The southern guest lodge was located on a piece of property that was developed with a single-family residence, so when the barn was converted into the guest lodge in 1997, the guest lodge should have been reviewed through subdivision at that time. The northern guest lodge, first used this past summer, was also in violation of the Subdivision Regulations.

Ms. Morgan displayed photographs of the property, house, guest lodges, out-buildings, fire suppression system, pond and agricultural lands, and access approach to the property.

Public comment –

Russell Anderson, 2655 Craig River Road, Craig, Montana. Mr. Anderson explained that he and his wife, Sue, became aware of this property in November of 2010. They viewed the property and January 4, 2011, contacted Christal Ness in the County's Planning Dept. to ask if there were any issues with the property and whether it was zoned; her response was no. Mr. Anderson related to Ms. Ness their plans for the property and she referred them to Frank Preskar. Mr. Anderson said he talked numerous times over the year with Mr. Preskar about their plans to probably put in an additional lodge and upgrade the septic system because of plans for installing a kitchen. The Andersons went through the process of obtaining building permits with the State and County. A year ago last December they received notice from the County that they were in violation of Subdivision Regulations. Subsequently, they met with the County in January, and as a result, were bringing forward three variance requests. He provided background on the conservation easement with the Montana Land Reliance and explained that the property across the road from his would never be developed. To the south a screen of trees and bushes was already in place that obscured the view from that property towards the lodges. Regarding the variance for fire protection, he noted the center pivot pump that provides approx. 750 gpm, adding it would probably be accessible most of the time. The pump would be listed on the GIS maps for reference by other fire departments. Plans were in place for a joint meeting with the Wolf Creek/Craig Fire Service District on April 2<sup>nd</sup> and tour of the property. A training session on the operation of the irrigation pump for fire department personnel would be scheduled later in the spring. The property is 0.7 mile from the boat landing and Craig River Bridge, which provided access to river water. Mr. Anderson addressed the third variance request, related to determining costs directly attributable to the subdivision. A Traffic Study was conducted last spring. Originally, he said the Traffic Study only addressed the four additional rooms because they were under the impression that the first four additional rooms were already approved. They planned to revise the Traffic Study to include the total of eight additional rooms.

Sue Anderson, 2655 Craig River Road in Craig, Montana. Added that their guest operation ran April to October and was closed during the winter months, thus lessening the potential need for fire suppression equipment.

Commissioner Hunthausen asked if there was a potential alternate route around the building to

allow access for emergency vehicles and Mr. Anderson confirmed there was access along the fenceline and across the railroad tracks, but it would need some improvement and he was willing to improve the access road and maintain it.

Commissioner Hunthausen asked about intentions for further expansion of structures and Mr. Russell responded that, except for 1-2 yurts by the river, they had no plans for expansion.

Public comment –

Rocky Infanger, 2107 Craig River Road, Wolf Creek, Montana. Expressed concern with emergency vehicle access between existing buildings and that the road providing access to the pump would not withstand multiple trips by trucks that weigh up to 30,000 lbs. Gravel would be necessary around the pump area to facilitate a turn-around for trucks. He confirmed Mr. Anderson had already modified his pump to allow fire truck hook-up, and that training was scheduled. Regarding accessing the river at the Craig Bridge, Mr. Infanger expressed concern that in summer months vehicles parked along both sides of Main Street, thus restricting access. The Fire Dept. would deploy a portable pump as a backup to Mr. Anderson's pump which would allow for filling two trucks at once. He was comfortable that all of his questions had been answered and his concerns were addressed.

Chris Phelps, 403 Ming Place, Helena, Montana. Employed by the Montana Land Reliance and attended the meeting to answer questions related to the conservation easement. One stipulation in the conservation easement was that under no condition may the land under the easement be divided into more than two parcels, which meant the Anderson's land could never be subdivided. There is an existing residence on Tract A which was the only house allowed on the remaining two tracts. The structure could be replaced with a slightly larger house or expanded with additions. The only other development allowed on the property as a whole was agricultural structures built at the discretion of the owners. Regarding the guest ranch operation, any structures that were on the property at the time the easement was placed could be used for purposes of guest ranching. The structure that was torn down was measured first and that footprint could potentially be used; however, the Andersons have chosen not to use it.

Commissioner Hunthausen asked for clarification regarding foregoing of a PER for an estimate and that the impact to the road was projected to be 5 percent or less. Ms. Morgan said, depending on the segment of the road, essentially, that was correct. They would, however, have to redo the Traffic Impact Analysis to confirm the percentages, as the lodges had not been previously taken into account.

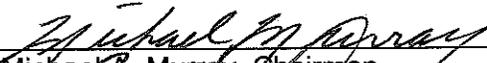
Commissioner Murray closed the public hearing.

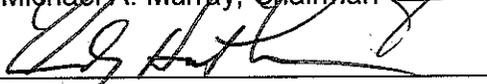
Commissioner Hunthausen moved to render a decision on the proposal Tuesday, February 5, 2013, at the regularly scheduled public meeting. Commissioner Murray seconded the motion. The motion carried 2-0.

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

There was no other business and the meeting adjourned at 9:55 a.m.

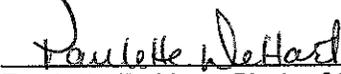
LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

  
Michael A. Murray, Chairman

  
Andy Hunthausen

\_\_\_\_\_  
(Vacant)

ATTEST:

  
Paulette DeHart, Clerk of the Board