

**PUBLIC MEETING  
DECEMBER 10, 2013  
MINUTES**

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, December 10, 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. Commissioner Good Geise was excused. Others attending all or a portion of the meeting included Eric Bryson, George Theborge, Paul Stahl, Carrie Severson, Kelli Roemer, Jim and Mildie Kehr, Ryan Casne, Jack Walsh, Mike Fasbender, Al Knauber and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson)

Eric Bryson reported there were no Consent Action Items today.

Independent Contractor Contract between Lewis & Clark County and Snow Timber Services. (Pat McKelvey) (Eric Bryson) The Commissioners will consider the contract for Wildland Fuel Mitigation Projects in Lewis & Clark, Jefferson and Broadwater Counties at a rate of \$1,350 per acre. Contract period is according to the Landowner Plan.

Eric Bryson reported on the Independent Contractor Contract between the County and Snow Timber Services for Wildland Fuel Mitigation Projects in the Tri-County area at a rate of \$1,350 per acre. Staff recommended approval and noted the contract amount had been altered but not initialed by the contractor.

No public comment was received.

Commissioner Hunthausen moved approval of the Independent Contractor Contract between Lewis & Clark County and Snow Timber Services as presented, contingent on approval of the altered per acre cost by the contractor, as discussed.

Commissioner Murray seconded the motion. The motion carried 2-0.

Independent Contractor Contract between Lewis & Clark County and Brady's Tree Service. (Pat McKelvey) The Commissioners will consider the contract for Wildland Fuel Mitigation Projects in Lewis & Clark, Jefferson and Broadwater Counties at a rate of \$1,250 per acre. Contract period is according to the Landowner Plan.

Eric Bryson reported on the Independent Contractor Contract between the County and Brady's Tree Service for Wildland Fuel Mitigation Projects in the Tri-County area at a rate of \$1,250 per acre.

No public comment was received.

Commissioner Hunthausen moved approval of the Independent Contractor Contract between Lewis & Clark County and Brady's Tree Services, as presented.

Commissioner Murray seconded the motion. The motion carried 2-0.

Public Hearing. Resolution No. 2013-112 to Create American Bar Rural Improvement District No. 2013-2. (Carrie Severson) The Commissioners will consider public comment and the resolution.

Carrie Severson, Special Districts Coordinator, noted today was a public hearing on Resolution 2013-112 to Create a Rural Improvement District for American Bar Road Number 2013-2. The petition showing boundaries and containing 60 percent of the parcels, and Scope of Service as outlined in Resolution 2013-64, were reviewed. The engineer Dowl HKM will have charge of the work for an estimated cost of \$11,000 per year or \$100 per lot, tract or parcel. The protest period opened October 20 and closed Dec. 6, 2013, resulted in 17.2 percent who protested. Staff recommended allowing the property owners to build a consensus as to the Scope of Service they desired in the future, and presented options for the Commission's consideration. Staff recommended tabling the item to the next regularly scheduled public meeting.

Public hearing –

Jim Kehr, 21 South Hills Drive, Clancy, Montana, explained that signature solicitation for the petition stopped at 60 percent as that met the threshold required by law; however, additional residents expressed support for the petition. He encouraged approval of the resolution, expressed his willingness to work with the County Road Supervisor, and thanked Ms. Severson for doing a great job.

The public hearing was closed.

Commissioner Hunthausen moved to render a decision on Resolution 2013-112 to Create American Bar Rural Improvement District No. 2013-2, on Thursday, Dec. 12, 2013.

Commissioner Murray seconded the motion. The motion carried 2-0.

Memorandum of Understanding between Lewis and Clark County and Southridge Properties, L.L.C. (George Theborge) The Commissioners will consider entering into a Memorandum of Understanding with Southridge Properties, L.L.C. for the preliminarily approved Southridge Estates Major Subdivision (a.k.a. York Meadows).

George Theborge, Director of Community Development and Planning, presented the draft Memorandum of Understanding relating to the Southridge Estates Major Subdivision, a 32-lot residential subdivision located east of and adjacent to Floweree Drive, northwest of and adjacent to York Road, in the general vicinity of Warren School. As a result of a Settlement Agreement between the applicant and the County, preliminary approval for Southridge Estates Major Subdivision was granted on Jan. 22, 2009. The draft MOU established the need to modify the Settlement Agreement and Conditions of Approval with respect to the pedestrian crossing on York Road. The Agreement required the developer to install a pedestrian crossing, subject to all conditions required by the Montana Dept. of Transportation; those conditions required crossing guards at that pedestrian crossing. The developers, County Staff, MDT and School District officials had met and reached consensus that the pedestrian crossing could not be safely installed at this time; the School District would not provide the crossing guards. Therefore an acceptable alternative pedestrian safety mitigation plan had been prepared by the developers. The Settlement Agreement and conditions of approval required the developer to install a pedestrian crossing that could not be completed; therefore, the entire project was in jeopardy. The proposed non-binding Memorandum of Understanding would allow moving

forward with the pedestrian mitigation plan, and would provide the developers with needed assurance of the County's willingness to modify the Settlement Agreement and conditions of approval and move forward with completion of infrastructure construction and ultimately to prepare a final plat application for the subdivision. The developer agreed to fully fund the future installation of the pedestrian crossing and deposit those funds with the County. Approval of the MOU would commit the developers and the County to preparing a revised Settlement Agreement and approval conditions that would allow the alternative pedestrian safety mitigation plan to go into effect. Three options were presented to the Commission: accept the draft MOU; proposed modifications to the draft MOU; or deny approval of the MOU, and instead approve an amendment to the Consent Agreement. Staff recommended the third option as a first step.

Commissioner Hunthausen inquired as to the specifications for the fence in Condition 1.b. and noted the speed limit reduction in Condition 2.d. was not under the jurisdiction of the Commission; however, they could support the effort. He inquired as to the possibility of grade separation at the intersection. Mr. Thebarga responded that due to high groundwater tables, an underpass was not a viable option. An overpass or pedestrian bridge over York Road was the second possible alternative; however the construction cost was beyond the capacity of any one individual subdivision. The current Settlement Agreement and conditions of approval requires each lot owner of the subdivision as they purchase lots, to sign a waiver of protest against joining a Special Improvement District to create that pedestrian bridge at some future time. The advantage of having the developer pay the County would be that the funds would be available for an alternative solution.

Commissioner Hunthausen addressed the need for a second ingress/egress on the east side of the subdivision, where a fence was currently proposed. Mr. Thebarga explained this was a temporary condition; once the pedestrian crossing was constructed, the fencing would be removed.

Commissioner Murray asked if School District's agreement to provide bussing would be at the general taxpayer's expense. Mr. Thebarga thought it was the District's intent to have the bus stop at the subdivision, but not charge subdivision residents at this time.

Commissioner Murray asked Deputy County Attorney Paul Stahl if it was correct that the Commission could not consider the cost of the overpass when mitigating problems with a subdivision. Mr. Stahl explained that costs could not be used as a basis to find hardship. Mr. Thebarga noted that with respect to educational services, under the Montana Subdivision and Platting Act, the County could not deny a subdivision based solely on increased educational costs.

Ryan Casne, Casne & Associates, the developer's representative, addressed the question related to fencing. A 5-foot-high, three strand barbed wire fence with 2.5 feet of woven wire at the bottom was being considered along York Road, and was subject to DOT approval. Regarding the pedestrian crossing, Mr. Casne confirmed the groundwater issue. The overpass option had been discussed at length with MDOT; they preferred a location where topography allowed for a sunken roadway and hills on both sides. Their concern was that the overpass would not be utilized by student pedestrians. The applicant and engineer were in agreement with the Conditions being modified for a waiver of right to protest an RID for a future overpass. Currently, a school bus travels southbound on Floweree, and would stop at the subdivision if the developer provided a bus shelter, which they agreed to do.

Commissioner Hunthausen asked if the option of a signaled intersection was discussed with MDT. Ryan Casne stated that MDT did not feel there was enough traffic at the Tizer Road

intersection to justify a signalized stop at this time. Commissioner Hunthausen stated the goal of the fence along York Road was to discourage crossing at non-designated points along the road and questioned if the proposed design was adequate. Mr. Casne confirmed that was the goal of the fence and it would be taken into consideration when the final design was developed. The design was the same as was required by the County on canals.

Public hearing –

Paul Stahl offered to provide suggested language changes to the MOU to the Commission following today's meeting, noting that this was a non-binding agreement. Commissioner Murray asked for confirmation that the MOU would need to go back to the Court for acceptance. Mr. Stall agreed the two parties had anticipated that once an agreement was reached, they would return to Court to modify the Order to reflect the new agreement.

Commissioner Hunthausen asked Mr. Theborge to determine if a recent speed study had been conducted on York Road.

Mike Fasbender, 3930 Bouy Boulevard, Helena, addressed the speed reduction issue, stating that if the County made a request for reduced speed, it would be automatically reduced 10 percent, resulting in a 45 MPH zone, and supported the reduction regardless of what took place with regard to the subdivision. Regarding the MOU, his attorney advised that because the case was dismissed with prejudice, the agreement would be between the two parties, and would not require Court approval. Commissioner Murray confirmed his intention to submit the MOU for Court approval, and Mr. Fasbender agreed.

Commissioner Murray asked Mr. Fasbender to state his agreement to requesting a speed study; Mr. Fasbender confirmed support for a speed reduction.

The public hearing was closed.

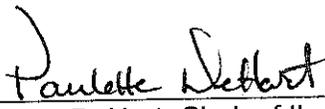
Commissioner Hunthausen moved to take today's information under advisement and render a decision on Thursday, Dec. 12, 2013.

Commissioner Murray seconded the motion. The motion carried 2-0.

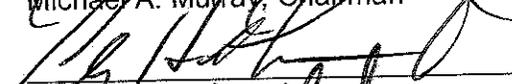
Public comment on any public matter within the jurisdiction of the Commission that is not on the agenda above. None.

There was no further business and the meeting adjourned at 9:45 a.m.

ATTEST:

  
Paulette DeHart, Clerk of the Board

LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

  
Michael A. Murray, Chairman  
  
Andy Hunthausen  
  
Susan Good Geise