

**PUBLIC MEETING
SEPTEMBER 9, 2014
MINUTES**

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, September 9, 2014, at 9 a.m. in Commission Chambers Room 330 of the City-County Building, 316 North Park Avenue, Helena, Montana.

Chair Susan Good Geise called the meeting to order at 9 a.m. Commissioner Andy Hunthausen and Commissioner Mike Murray were present. Others attending all or a portion of the meeting included K. Paul Stahl, Eric Bryson, Michele Peterson-Cook, Chet French, Paul Spengler, Drenda Niemann, Nancy Everson, Frank Rives, Lindsay Morgan, Brian Dunlop, Maribel Dunlop, Karlee Miller, Kris Lane, Larry Loberg, Matt Lane, Karen Marble, Steve Shirley, Louise McDonnell, Tony Prothero, Pat Drynar, Jim Herrin, Misty Edwards and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance. Everyone recited the pledge.

Consent Action Items. (Eric Bryson)

a. Public Meeting Minutes: August 5, 7, 12, 14, 19 and August 21, 2014 (Misty Edwards)

Eric Bryson reported on consent action item 2a and recommended approval.

No public comment was received.

Commissioner Murray moved approval of consent action item 2a.

Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Federal Fiscal Year 2014 Homeland Security Grant Award. (Paul Spengler)

The Commissioners will consider the Homeland Security grant award to the Montana Department of Military Affairs, Disaster and Emergency Services Grant Program in the amount of \$105,000 for purchase of a generator for the Lewis & Clark County Fairgrounds.

Paul Spengler presented the grant award with the Montana Department of Military Affairs, Disaster and Emergency Services Grant Program in the amount of \$105,000 for purchase of a generator for the Lewis & Clark County Fairgrounds. The generator will power the entry hall at the Fairgrounds and would also provide us with a public kiosk in the event of a large disaster and provide the Red Cross with its first generated power shelter. The grant year begins October 1, 2014 through September 30, 2015. Mr. Spengler asked the Commissioners to approve the grant.

No public comment was received.

Commissioner Hunthausen moved to approve the grant.

Commissioner Murray seconded the motion. The motion carried 3-0.

Contract between Lewis & Clark City-County Health Department and The State of Montana Office of Court Administrator and 1st Judicial District. (Drenda Niemann).

The Commissioners will consider contracting with The State of Montana Office of Court Administrator and 1st Judicial District for the hire of a Referral Coordinator in the amount of \$60.00 per youth referral, approx. 34 youth referrals a month. The contract's initial term is August 18, 2014 through June 30, 2015. Total payment of this contract may not exceed

\$24,480.

Drenda Niemann presented the contract between Lewis & Clark City-County Health Department and the State of Montana Office of Court Administrator and 1st Judicial District to hire a referral coordinator. The position will be responsible for recruiting and training local delivery agencies, provide technical assistance, monitor and oversee the implantation of the new system and provide referral reports to the State and agencies using the system. The referral system is a tool to the community to serve families more effectively and efficiently by making referrals through a secure and online system. The original system was funded by the Safe Schools Healthy Students Grant that expired June 2014. The county has been asked to take over the responsibility of the staff and the system; this grant will assist the County to maintain the service. The staff recommends approval for the grant.

Commissioner Good Geise asked how the system works.

Ms. Niemann answered, over the last 3 years our community has been using this system to connect families to services. There are 35 agencies that agreed to participate in the previous system. We are starting from scratch and hope the 35 will remain. Examples agencies are: Intermountain Children's Home, Florence Crittenton Home, the Health Department, the School District, Mental Health Services and Substance Abuse Services.

Commissioner Murray asked why isn't the school system funding this grant.

Ms. Neimann answered, the original system was funded through a grant the School District received and since has expired, the school was not able to sustain and has asked the County to help.

Commissioner Murray asked what the cost to County tax payers would be, Ms. Neimann answered, the grant does not cover the administrative fees the Health Department would normally charge, about 10%, that would allow the fiscal and HR office to help and those charges would be in-kind to the County at this point.

No public comment was received.

Commissioner Hunthausen moved to approve the contract.

Commissioner Good Geise seconded the motion. The motion carried 3-0.

The commissioners expressed their concerns about the future of the program as they see the importance of the program however they will not vote to financially support the program going forward.

Memorandum Of Understanding between Lewis and Clark County, the USDA APHIS Wildlife Services Program and the Montana Wool Growers Association. (Nancy Everson)

The Commissioners will consider the MOU for the continued operation of the protection of sheep from destructive animals in the amount of \$1,358 for the period of July 1, 2014 to June 30, 2015.

Nancy Everson presented the Memorandum Of Understanding between Lewis and Clark County, USDA APHIS Wildlife Services Program and the Montana Wool Growers Association. The MOU is for predatory control for sheep. Lewis & Clark County places a fee per head and the Sheep producers pay that at .60/head, this money goes to the Wool Growers Association and they contract with USDA for predatory control. Staff recommends approval of this.

No public comment was received.

Commissioner Murray moved to approve the Memorandum of Understanding.

Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Memorandum Of Understanding between Lewis and Clark County, the USDA APHIS Wildlife Services Program and the Montana Department of Livestock. (Nancy Everson)

The Commissioners will consider the MOU for the continued operation of the protection of sheep from destructive animals in the amount of \$22,732 for the time period of July 1, 2014 to July 30, 2015.

Nancy Everson presented the Memorandum of Understanding between Lewis and Clark County, USDA APHIS Wildlife Services Program and the Montana Department of Livestock. This is actually a MOU with the Montana Department of Livestock for cattle. The Montana Stock Growers Association signed a petition last spring asking the County to add a fee per head of cattle for predatory animal control. That was passed and added to the tax rolls for the Cattle Fee, \$1 per head. Staff recommends approval.

No public comment was received.

Commissioner Murray moved to approve the Memorandum of Understanding.

Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Public Hearing. Zoning Variance from SZD No. 34 Regulations. (tabled from 8/28/14)

(Applicants: John & Alanna Conlee) (Planner: Lindsay Morgan)

The Applicants are requesting a variance from the lot and bulk requirements of Special Zoning District No. 34 (SAG-10) for a boundary line relocation that will allow for a minimum lot size of five acres, instead of the required ten acres, for a property located at 5564 Ferry Drive (Lot 8C of COS #3068370).

The Commissioners will consider the request.

Lindsay Morgan presented the Zoning Variance from SZD NO. 34 Regulations specifically the SAG-10 zoning classification. The variance was recommended for approval by the Planning and Zoning Commission at their August 27th meeting in a vote of 5-1. The Commission had questions regarding the definition "hardship".

A letter from the applicant advised the Commission of her husband's passing and asked for approval of the variance.

Mr. Bryson addressed whether or not they have enough information to make a decision today or to take more time to look into the particular circumstances and ask for verification if a change in lot size would still allow for the applicant's employer to purchase the min 5 acres. He would recommend this still continues for another week so the information can be taken into consideration.

The County Attorney's office is ready to have a brief discussion about the definition of hardship and how it pertains to general zoning variations. The letter points out a personal family tragedy and would like to have a further discussion to define hardship and how it pertains to the zoning variance. Ms. Peterson-Cook, Deputy County Attorney stated it should be noted that variances are not to be granted on personal hardships but hardships of the land.

Commissioner Good Geise confirmed that that hardship is associated with the land rather than personal hardship. She recommended tabling this for a week to confirm, clear unambiguous advice. We want to make sure they get this exactly right. She would recommend tabling this to Thursday, September 11th.

Public Comment.

Kris Lane, owner of Tract 8B, adjacent owners to John and Alana Conlee. She addressed the zoning meeting that took place on August 27 where the Zoning Board discussed the boundary adjustment. She acknowledged the Commission's concerns for the hardship and what it truly meant. Ms. Lane defined hardship as a struggle with adversity, a state of misfortune or affliction, a great suffering, a distress due to adversity, something that causes or entails suffering. According to the zoning, the literal enforcement of the zoning would cause a literal hardship that is not necessary to carry out the general purpose of the zoning ordinance; the variance will not substantially affect the general plan and will not be contrary to public interest. There is nothing about this boundary adjustment that will create any hardships on the County or any neighbors.

No further public comment.

Commissioner Hunthausen moved to render a decision on Thursday September 9th at the regularly scheduled public meeting.

Commissioner Murray seconded the motion. Motion carried 3-0.

Public Hearing. Proposed modifications to a preliminarily approved Minor Subdivision known as Baxendale Subdivision. (Tabled from 8-05-14) (Applicant: Mountain West Home Sales) (Planner: Frank W. Rives) The Commissioners will consider a request for modifications to the Baxendale Subdivision located east of and adjacent to Baxendale Drive, approx.62 miles north of Highway 12 West. More specifically, the applicant is seeking to modify Condition 7.b regarding fire protection, and is also requesting the rescission of the Independent Road Agreement.

The Commissioners will hold a public hearing, receive any associated public testimony related to the requests, and then consider the requests.

Frank Rives presented the proposed modifications to a preliminarily approved Minor Subdivision known as Baxendale Minor Subdivision. The applicant requested to modify condition 7.b to allow offsite fire protection water supply instead of an on-site water protection supply. The applicant also requests rescission of an independent road improvement agreement. The requirement for fire protection for this subdivision is 30,000 gallons. There were a number of options. One option is there is a 10,000 underground water supply tank located at the Baxendale Fire department, one option would be to work with the fire dept to increase the water capacity by 20,000 gallons or they could install a 20,000 gallons on their property and they could use the 10,000 gallons at the Fire Department to supplement that requirement. The applicant would like to work with the Fire Department to increase the water capacity at the Fire Station.

The applicant is asking to rescind the independent road agreement and replace it with the condition for percentage of impact which meets what we currently require in our subdivision regulations at this time. The two conditions for fire protection do not need to be altered nor does the condition for the receding of the road agreement.

Commissioner Murray asked if there is access to Hulls or will they need to cut a fence to access the pond?

Mr. Rives responded, there is a gate but there is no interest from Mr. Hull to enter into any agreement with the Fire Department or Department of Natural Resources.

Commissioner Hunthausen said, the pond is not a reliable source year round. Clarified that the proposed modifications are acceptable and there is no other modifications needed.

Tony Prothero, 155 Lump Gulch Road, representing the applicant on this project, stated the most beneficial thing would be to increase the Fire Department's water source. The infrastructure is there, we would just need to increase their storage volume. His only question is, if they improve the water source, the obvious problem is that they are paving the way for everyone else to come in and do something because there is a water source there that meets standards. Is there any opportunity to recover some of the investment into this water storage? His initial thought would be to come up with an agreement with the Fire Department on being able to recover some of their investment. On the other variance, they are still in full support in rescinding the road agreements but would like to base the cost of improvements on an engineered estimate rather than a preliminary engineering report.

Commissioner Good Geise confirmed that their concern is that future developers would hitch hike on the source.

Commissioner Murray, proposed a question to the County attorney as they've seen in the past there has been a time specific condition for road work where developers benefit from an improved road and would share in the costs and pay the develop who initially did the work, is that possible for water for fire protection?

Mr. Stahl: Anything is possible, it hasn't worked very well in the past but anything is possible.

Commissioner Good Geise: Was there any thought to assist from the Baxendale Fire Department?

Mr. Prothero said the Fire department would like to add a pump to the storage system they have to fill trucks inside the fire department or ideas of improvement like that not necessarily increasing their water storage. The increase of water storage only benefits us and other developments or subdivisions.

Commissioner Hunthausen commented that this cannot be resolved today. The options left are to address fire suppression and safety and wealth fare for the people that live there. It is something will need to continue to talk about to improve regulations and options for people.

Mr. Prothero stated that the Baxendale Fire Department owns the system (water source), a future developer will have to go to the Fire Department to use their source, but can the Fire Department help recoup the costs from the original investment?

Commission Good Geise stated those are conversations that will be had to have with the Fire Department.

No further public comment.

Commissioner Hunthausen moved to approve the request.

Commissioner Murray second. Motion carried 3-0.

The only additional modification is for the applicant to obtain an engineered estimate rather than a preliminary engineering report.

Proposed Major Subdivision to be Known as the 46 Degrees North Subdivision. (Applicant: Heller Properties, LLC) (Planner: Lindsay Morgan)

The Commissioners will consider a proposed 94-lot Subdivision located south of Beaverhead Road, east of and adjacent to North Montana Avenue, and three variance requests from the Lewis and Clark County Subdivision Regulations for the following requirements: Chapter XI: F.4

(lot abutting and having legal and physical access to a public road), Chapter XI: F.7 (3:1 lot dimension ratio), and Chapter XI.H.1, Appendix J-12 Figure 3, Typical Section No. 3 (minor collector roadway standard).

Lindsay Morgan planned to present the proposed subdivision. A request was received yesterday to table the item and for the review period be suspended. This morning the applicant has requested that this to be suspended until March 5, 2015. If the applicant were to come forward before that date we would need to provide notice to adjacent property owners.

Commission Good Geise, confirmed the applicant requested to put this on hold for 6 months, if they decide to pick it up prior to that date, that all adjacent property owners would be given notice, there would be notice in the newspaper and in the agenda.

Eric Bryson states that if the Commissioners agrees to entertain the request of the applicant to suspend the application, all work will stop from the staff's perspective. The Commission and the public need to know that none of the comments made today, if the Commission suspends the application, will be part of the package of review that might come forward. If you want to allow public comment, it cannot be considered or addressed until the application becomes unsuspended, goes away or changes into a new application.

Commissioner Hunthausen, this is the first we've seen anything about the subdivision, we have not heard what the Planning Board has heard or seen a staff. This would have been the first we would have been presented it today.

K. Paul Stahl, County Attorney, advised that there should be no public comment. He also noted that the public can submit written comment; however no new information can be submitted.

No public comment was received.

Commissioner Hunthausen moved to table the item to March 5, 2015 at the regularly scheduled public meeting.

Commissioner Murray seconded the motion. Motion carried 3-0.

Public Hearing. Proposed Buildings for Lease or Rent to be Known as Star Court. (tabled from 9/2/2014) (Applicant: Chet French) (Planner: Frank W. Rives) The Commissioners will consider a proposed Buildings for Lease or Rent application for 8 manufactured homes, each for one single-family dwelling located on Star Road, approximately 620 feet east of its intersection with Applegate Drive.

Frank Rives presented the proposed buildings for Lease or Rent to be known as Star Court. The applicant is requesting to place 8 units on the property with 4 wells to share between two of the dwellings. Mr. Rives asked the Commission to vote on whether to approve or deny the application.

Public Comment

Pam Langv-Davis, 7910 Shooting Star Drive, stated that 17A3 is her well and since she is not adjacent property owner she was not notified. Her concerns include the daily traffic, the dust from traffic increase, trash and enforcement. Her biggest concern is the water issues and the drain field. She does not feel that due diligence has been done in notifying the residents.

There is no further public comment.

The hearing has been closed.

Commissioner Murray moved to render a decision on Thursday September, 11th at the regularly scheduled public meeting.

Commission Hunthausen seconded the motion. Motion carried 3-0.

Helena Sand and Gravel Variance Application for Permitted Hours of Operation to Allow for Night Asphalt Production from September 15th through September 28, 2014. (Eric Bryson)
The Commissioners will consider the variance application.

Pat Drynan, 2209 Airport Road, presented the application for permitted hours of operations to allow them to run the hot plant at night for 10 business days with a 2 week window (for up to 5 days) to allow for weather considerations.

No public comment was received.

Commissioner Hunthausen moved to approve the application.

Commission Murray seconded the motion. Motion carried 3-0.

Board Appointments (Eric Bryson)
Forestvale Historic Preservation Committee
Forestvale Cemetery Trustee

The Commissioners will consider the appointments.

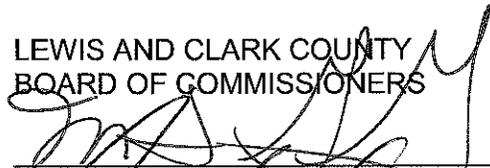
Eric Bryson presented Forestvale Cemetery Board appointments to appoint: John Palmquist to serve a 3-year term on the Forestvale Cemetery Trustee Board through Aug. 31, 2017. Appoint Ken Ludke to serve a 3-year term on the Forestvale Historic Preservation Committee through Aug. 31, 2017. Appoint Charles Ruzicka to serve a 3-year term on the Forestvale Historic Preservation Committee through Aug. 31, 2017.

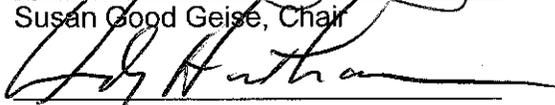
Commissioner Hunthausen moved to approve the appointments.

Commissioner Murray seconded the motion. Motion carried 3-0.

There being no further business, the meeting adjourned at 10:27am.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Susan Good Geise, Chair


Andy Hunthausen


Michael Murray

ATTEST:


Paulette DeHart, Clerk of the Board