



PUBLIC MEETING
December 17, 2015
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, December 17, 2015, at 9:00 AM in Commission Chambers Room 330.

Roll Call

Chairman Andy Hunthausen called the meeting to order at 9 a.m.

Commissioner Susan Good Geise and Commissioner Mike Murray were present. Others attending all or a portion of the meeting included Eric Bryson, Michele Peterson-Cook, K. Paul Stahl, Kevin Hamilton, Lindsay Morgan, Matt Heimel, Greg McNally, Eric Griffin, Audra Zacherl, Doug Nisbet, Jess Whitford, Susan Suter, Maria Penna, Sherrel Rhys, Laura Erikson, Misty Edwards, Nancy Everson, Chris Sinrud, Larry Hoffman, Marni Bentley, Al Knauber, Jason Danielson, Art Pembroke, Phil Hauck, Cheryl Green, Peter Anderson, Dean Retz, Melanie Reynolds, Kathy Moore, Jeremy Fadness, Mike Magee, Dana Robbins, Dustin Noel, Mark Runkle, and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Announcement

a. Employee Recognition. (Eric Griffin)

Eric Griffin presented Sherrel Rhys as the Solid Waste Manger for the County for the past 11 years and is retiring.

Consent Action Items

a. Vendor Claims Report for week ending December 18, 2015. (Marni Bentley)

Eric Bryson reported on the consent action item 3a and recommended approval.

No public comment was received.

A motion to Approve was made by Commissioner Murray and seconded by Commissioner Good Geise. The motion Passed on a 3-0 vote.

Change Order No. 1 to the Contract Between Lewis and Clark County and Diamond Construction, Inc. (tabled 11/24/15) (Audra Zacherl)

Audra Zacherl, Finance Coordinator, presented the change order to the contract between Lewis and Clark County and Diamond Construction, Inc. dated September 10, 2015 to reduce the contract by \$2,292 and to allow for a winter shutdown and extend the substantial completion date by 46 days.

No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Resolution 2015-165 To Create The Canyon Ridge Rural Improvement District No. 2015-11. (Matt Heimel)

Matt Heimel, Special Districts Planner, presented resolution 2015-165 to create the Canyon Ridge Rural Improvement District. Planning staff has processed a request to create a Rural Improvement District by the subdivision applicant for the preliminarily approved Canyon Ridge Subdivision in order to satisfy conditions of approval. The cost structure for the RID is currently set up for maintenance items in Phase I. Maintenance in Phases II and III are included in the district's scope of service, and costs for these items will be required by the subdivision applicant prior to final plat of the phases, as per conditions of approval. Maintenance items will include roads, storm water, fire protection, and parks. The total annual estimated maintenance cost is \$37,255.49.

Mike Magee, 3635 Amber Court, the applicant, noted that fire protection is included in the RID.

No public comment was received.

A motion to Approve was made by Commissioner Murray and seconded by Commissioner Good Geise. The motion Passed on a 3-0 vote.

Amended Plat of Lot 47D - Valley View Heights Subdivision. (Applicant: Jerry L. Christison) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented the amended plat of lot 47D in the Valley View Heights Subdivision. The request is to realign the existing drainage and its associated easement on Lot 47D. On September 7, 2006, the Amended Plat of Lot 47 - Valley View Heights Subdivision was final platted and the subdivision plat described and showed two, 60-foot wide, ephemeral drainage easements on Lot 47D. In 2006, a single-family dwelling and an attached deck were constructed, and a portion of both the dwelling and deck were built within the southeastern drainage easement. An as-built survey conducted on October 26, 2015 identified the encroachments into this drainage easement, and according to this survey, the house encroaches approximately 11 feet into this easement and the deck encroaches approximately 16 feet. As a condition of preliminary approval for the Amended Plat of Lot 47 - Valley View Heights Subdivision, the final plat was required to show and describe two 60-foot wide drainage easements on Lot 47D. The Subdivision was final platted on September 7, 2006 with the two drainage easements shown and described on the final plat. In 2006, a single-family dwelling was constructed on Lot 47D, and portions of the dwelling and deck were built within the southeastern, 60-foot wide, drainage easement. According to the application, this easement is the more minor drainage of the two drainage's, and is not considered a large, ephemeral drainage. During a site inspection, Staff observed that a propane storage tank and part of a fence also encroach into this easement. Covenants placed on the Subdivision state that "any development, alteration, or encroachment within the drainage easement is prohibited." Therefore the house, deck, propane tank, and fence encroaching into one of these easements is a violation of the restrictive covenants. In order to get financing for a mortgage, the financial institution is requiring that this encroachment issue be resolved. The applicant has applied for an amended plat to relocate this drainage easement to eliminate the encroachments. To accomplish this, the applicant proposes to relocate a segment of this drainage and its associated easement approximately 25.5 feet to the west for approximately 250 feet. The Planning Department requested comments from both adjacent property owners and numerous agencies regarding the proposed relocation of the southeastern drainage and its associated easement. No members of the public provided comments, and the only responding agency were the Montana Natural Heritage Program, but their comments were of an informative nature only. The Amended Plat of Lot 47 - Valley View Heights Subdivision required drainage easement dedications on Lot 47D, and when the single-family dwelling and its attached garage and deck were constructed on-site, a portion of the house and decks were built within the southeastern drainage easement. If the drainage and its easement are relocated as proposed, the encroachments will be eliminated. In addition, there will no longer be a violation of the covenant specified in this report. If however, the proposal is denied, the house, deck, propane tank, and portion of the fence lying within the easement will need to either be completely removed or relocated outside of the easement.

Commissioner Hunthausen asked how the encroachment happened as easements are not hidden from builders or developers and noted it is their responsibility to ensure they are not building into easements, drainage's or right-of-ways.

Lindsay Morgan stated the house was constructed in 2006 by Hamlin Construction and the property was sold to another party who had the property repossessed by the bank and in turn the property was sold to Mr. Christison who would now like to sell the property.

Commissioner Murray asked if the applicant was aware it was encroaching at the time of purchase.

Lindsay Morgan stated she is not sure when the applicant became aware of the encroachment.

Dean Retz, the applicant's representative, stated the applicant bought the home from the bank and was unaware of encroachment. He stated the builder followed the guidelines when building the structure however he was not certain the builder had to obtain title insurance. The intended buyer has to submit an encroachment survey to the lender and that has brought this request before the Commission.

Commissioner Geise stated the individuals involved are experienced and educated and asked again why they built over an easement. She stated the Commission's job is to protect the public from builders who do not follow the regulations or the law.

Dean Retz stated that some engineers used to include a building envelope on a final plat and that is not done as much anymore.

Dana Robbins, 6106 Navaeh Court, stated he is trying to purchase the house through a VA loan which is given more scrutiny. He asked for consideration to have this approved so he can close before the end of the year.

Lindsay Morgan noted that the proposal before the Commission today is for an amended plat. If the Commission approves this request the Commission can place conditions on the plat as this is a preliminary approval and a final plat application would have to follow. She noted the draft findings and conclusions and conditions as prepared by staff.

Commissioner Hunthausen stated his frustration of the situation and asked Mr. Retz why the request was brought before the Commission so late in the year.

Dean Retz stated the lender told Mr. Robbins that with preliminary approval they could move forward with the purchase.

Commissioner Murray asked Mr. Retz there are additional benefits the applicant would receive.

Dean Retz stated he did not know what they are. He assumes they would be tax benefits.

Commissioner Geise asked if the applicant is comfortable with the conditions.

Lindsay Morgan stated she has not heard specifically from the applicant but he has received the conditions for review.

Dean Retz stated he understands and agrees with the conditions.

PUBLIC COMMENT-

Mark Runkle, 431 South Alice Street, stated if the Commission is serious about solving this problem he suggests having a building department that would involve site plans and standards that would ensure buildings are being built up to code.

A motion was made by Commissioner Geise to approve the amended plat as outlined by staff, the findings of fact and conclusions and law as drafted by staff and seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Final Plat Application and Subdivision Improvements Agreement for the Canyon Ridge Subdivision, Phase 1. (Applicant: T&M Planning Group, LLC) (Planner: Greg McNally)

Greg McNally, Planner II, presented the final plat application and a subdivision improvements agreement for the Canyon Ridge Subdivision, Phase 1 located east of Lake Helena Drive and south of and adjacent to Canyon Ferry Drive. The applicant has submitted an application for final plat approval and a proposed subdivision improvements agreement for the Canyon Ridge Subdivision, Phase I. The preliminary approval is for a total of 129 lots to be completed in three phases: Phase I includes 63 single-family residential lots, one county parkland lot, one lot for future Phase II, and one lot for future Phase III. Phase II includes 18 single-family residential lots and four open space/park lots and Phase III includes 42 single-family residential lots and one open space/park lot. A letter of credit has been submitted to financially guarantee the completion of the subdivision improvements through July 20, 2016. The plat is found to be in substantial compliance with the Lewis and Clark County Subdivision Regulations and all conditions have been met and/or otherwise addressed by the applicant.

Mike Magee, the applicant, thanked staff for their thoroughness with the project.

No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Presentation of the City-County Planning Board Resolution and Transmittal Memorandum regarding the County Growth Policy Update. (Greg McNally)

Greg McNally, Planner II, presented the presentation summarizing the proceedings of the Helena/Lewis and Clark County Consolidated Planning Board public hearing held on December 8, 2015 regarding the County Growth Policy update as well as a Planning Board resolution recommending action on the County Growth Policy update that was adopted by the Board on December 15, 2015. Input from the Planning Board on Volume I from the Key Issues Report and Volume II of the Helena Valley Area Plan of the County Growth Policy update was presented in a memo format and was reiterated to the Commission. The resolution adopted by the Planning Board recommending amending the Lewis and Clark County Growth Policy to adopt the Helena Valley Area Plan was read to the Commission. Mr. McNally stated the next steps for the Commission is to accept, reject or revise the recommendation that the Commission amend the Growth Policy by adopting the Helena Valley Area Plan by resolution.

No public comment was received.

Board Appointment. (Eric Bryson)

Eric Bryson presented the appointment to the vacancy on the Lincoln Fire District Board of Trustees. Damon Kegel resigned as a trustee of the Lincoln Fire District at the board's December 3 meeting. James W. Frisbee and Michael Wayne Wiederhold have each submitted a petition for appointment, and the elections office has confirmed that each are eligible to hold the office.

No public comment was received.

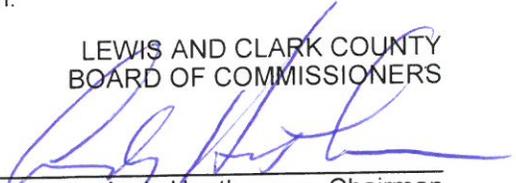
A motion was made by Commissioner Geise to appoint James Frisbee to the Lincoln Fire District Board of Trustees to hold office until the next regular election, May 3, 2016 and seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

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

Adjourn

There being no further business, the meeting adjourned at 11:05 am.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Andy Hunthausen, Chairman

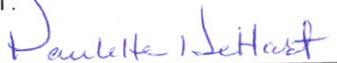


Michael Murray, Vice Chair



Susan Good Geise, Member

ATTEST:



Paulette DeHart, Clerk of the Board