

**PUBLIC MEETING**  
**June 3, 2003**

Chair Varone called the meeting to order at 9:00 a.m. Commissioner Murray and Tinsley were in attendance. Others attending all or a portion of the meeting were Mandi Ross, Ron Alles, Janet Pallister, Marni Bentley, Grant and Nancy Kiser, R Hudnall, Alan Bock, Larry Marshall, Scott Kottas, Jerry Shepherd, Dave Mason and Bruce Swenram.

Pledge of Allegiance. Everyone recited the pledge.

Proposed Minor Subdivision, Preliminary Plat to be Known as the Kottas Ranchette Minor Subdivision. (Applicant, Scott Kottas, Alan Bock) (Jerry Grebenc) The Commissioners will consider creating four lots, each for one single-family dwelling. The proposed subdivision is located in the S ½ of Section 29, T10N, R2W. The proposed subdivision is located east of and adjacent to the south end of Eastgate Drive and eastern side of Eastgate Village Subdivision.

Alan Bock indicated that he has had an opportunity to look at the documents and he has no comments or concerns to discuss.

Jerry Grebenc reported the subject property is located adjacent to the east of Eastgate Village. The property is currently undeveloped. The applicants are proposing four lots for single-family residences. All the lots would be five acres in size. The covenants that do run with the land permit subdivision down to five acres and no less. The property slopes to the northwest at a grade of four to ten percent. It is dominated by a small hill in the middle of the property. Vegetation consists of grasses and weeds. One soil type has been identified as prime if irrigated. It appears the property has not been used for agricultural purposes for quite a long time. There is an adjacent property to the north that is used for horse pasture and residential use. There are no irrigation waters or facilities identified on the property. The applicant is proposing individual onsite wastewater treatment systems. Soils do have slight to moderate constraints for such systems. There is adequate vertical and lateral separation from groundwater. DEQ and Health Department approvals are necessary. Individual onsite wells are proposed. Those wells would be completed in a tertiary aquifer that is an area between bedrock and an alluvial aquifer. Well depths range from 53 – 380 feet in this section with yields of 5 – 360 gallons per minute. Legal and physical access would be Prairie Nest Drive to Lone Prairie Road via an internal access road. All the roads would need to meet County Standards. Prairie Nest Drive and Lone Prairie Road do appear to have sections that don't meet County Standards. It would appear that the applicants would need to grade or reconstruct those roads and they would have to be certified by a registered engineer. The proposed access route would create a dead-end road over 1,000 feet in length and the applicants have requested a variance from that standard. Prairie Nest Road has an approach onto Highway 12. Lone Prairie is an east west road. The subject property is in the Eastgate Fire Department. The Fire Department is much closer than three and a half miles. It is directly adjacent to the property. Eastgate Fire Department sent in their comments; they recommended annexation into the Eastgate Water and Sewer District or an onsite fire protection water supply and the development and maintenance of a fuel modification plan. Staff's experience with any annexation or financial agreements with Eastgate dealing with subdivisions has been problematic at best. Staff is recommending a per lot fee in lieu of that. No surface waters are identified on the property. Soils do have slight to moderate constraints for onsite systems. The property is in the Lewis and Clark Air Quality District. There would be additional impacts for increased vehicular traffic on gravel roads and the potential use of wood burning stoves. Dalmatian Toad Flax was identified on the property and a five-year weed management plan would be required. Visual impact would appear to be minor. Elevated nitrates have been identified in Section 29. Mitigation would be through DEQ and Health Department Review. There is the potential for elevated levels of Radon gas. There is an earthquake fault located approximately ¼ mile to the east of the property. There is a small drainage that cuts through a portion of the property. A drainage plan would need to be submitted for

- 
- **Vendor Invoice Claims and Reports are available for public inspection in the County Budget Office.**
  - Lewis and Clark County will provide appropriate auxiliary aids to individuals with hearing, vision, or speech impairments. Availability of these services will be dependent upon sufficient notice to secure them. For assistance, please contact 447-8305 or TDD Relay Services 1-800-253-4093.

review and approval. Staff does recommend approval of the Kottas Ranchettes Minor subject to fourteen conditions.

Commissioner Murray asked Mr. Grebenc if it is worth asking the applicant to pursue the easement across County Parkland so that there are two accesses, Prairie Road plus the new road that would be developed.

Mr. Grebenc stated that staff had met with the applicants and discussed their options. It seemed ideal to access the property from Eastgate. It seemed to be a logical option. Once the application was made and the notification went out to the adjacent property owners, there was a lot of opposition from the folks in Eastgate. Mr. Grebenc met with the applicant and indicated to him that there was substantial opposition from the folks in Eastgate, discussed the options and went with this proposal. The staff was not going to recommend a through road to Lone Prairie because this is a four lot minor subdivision it seemed to be fairly inequitable to make the applicants build a road from Eastgate all the way through to Lone Prairie.

Chair Varone stated the letter they received indicated it is a private road, is that correct?

Mr. Grebenc stated that it is a public access easement.

Commissioner Tinsley asked what it would take to create an access from the fire department into the subject property.

Mr. Grebenc stated it would take the fire department being willing to grant an easement, but you would also need to cross the small section of parkland – you would have to follow the statutory process to grant an easement.

Commissioner Tinsley is not trying to make it public access, but an emergency access for the fire department. Go ahead with what is proposed, it doesn't make sense to send the fire department all the way around, when they are right next door. Is this a possibility?

Mr. Grebenc stated the question is if you have the access across how it would tie in – you would have to have a physical tie in. Eastgate Fire Department isn't going to take their large rigs across open country unless they have a hard surface road. Do you put in a hard surface road with a gate that says emergency access only?

Alan Bock stated that Scott Kottas and his wife purchased that land with the idea of subdividing it because it could be divided into five-acre lots. He got involved in it last year to help Scott develop it. Coming off of Eastgate made a lot of sense. They were baffled by the opposition from Eastgate. There was an excessive amount of complaints. The only way to move on is what they have proposed. He believes the concern is that they were going to connect up all the other lots to pass through Eastgate and that was never their intention. They received a letter from the school stating they didn't want any more students.

Chair Varone stated it is the Commissions responsibility to follow the subdivision regulations and so long as the subdivision regulations are followed, they are legally obligated to approve the subdivision. Almost always when a new subdivision comes into an area, the neighbors oppose it. Another thing they need to look at is the safety of the subdivision being built. As far as the school district is concerned, while they may not want additional students, the reality is that growth occurs.

Commissioner Tinsley wanted to point out that Chair Varone is speaking on behalf of herself.

Alan Bock stated they have a complaint about the exparte situation. With opposition they went with the original plan. Not being able to talk in any other forum but here, you've got to actually make a lot of decisions and spend a lot of money to get to this point.

- 
- **Vendor Invoice Claims and Reports are available for public inspection in the County Budget Office.**
  - Lewis and Clark County will provide appropriate auxiliary aids to individuals with hearing, vision, or speech impairments. Availability of these services will be dependent upon sufficient notice to secure them. For assistance, please contact 447-8305 or TDD Relay Services 1-800-253-4093.

Commissioner Murray stated he doesn't think that exparte is the least bit silly. Before you file the application you have the opportunity to sit down with any or all of the Commissioners. Once you file the application, then exparte does in fact take place. He is speaking solely for himself.

Chair Varone stated she agrees with Mr. Bock.

Commissioner Tinsley stated he concurs with everything Commissioner Murray said.

Chair Varone asked Jerry Grebenc to speak to the variance.

Jerry Grebenc reported the variance that is requested involves the fact that the proposed extension of Lone Prairie Road would create a dead-end road well over 1,000 feet in length, which is contrary to the Subdivision Regulations, and to permit that the Commissioners would need to grant a variance and the applicant has requested a variance from the standard.

Chair Varone stated she has a question on page eight, Condition of Approval 6D. It has to do with the fire department's requirements. Is there a property owners association? Is this applicable?

Jerry Grebenc stated that the applicants would be saying to the prospective buyers that they are responsible for the maintenance of the road.

Chair Varone asked if it should stay there? Does it confuse the conditions of approval? And isn't it covered in item 10C?

Jerry Grebenc stated you could amend the language.

Chair Varone stated that would work.

Chair Varone opened the public hearing.

Grant Kiser stated he is a resident in the Prairie View Subdivision, just east of the four lot proposal. Please keep in mind they are not saying they are against the four lots since only the adjoining property owners were notified. They attempt to maintain that road themselves as a subdivision. They would like to have a chance for the rest of the homeowners to have a chance to voice their concerns on the road maintenance agreement and emergency response. They just found out about this yesterday and would like a little more time for the rest of the neighbors to voice their concerns.

Commissioner Murray stated that one of the conditions staff has recommended is that each of the new homes would have to participate in the maintenance association.

Bruce (?) stated he is representing Eastgate Fire District. His company is Fire Logistics and Eastgate is his client. This has changed substantially since they reviewed it. First of all, to Commissioner Tinsley concern about access through the fire department – they don't think Chief Mergenthaler has enough ground to provide any kind of access. From a fire protection perspective they would prefer access through Eastgate Subdivision. Because of the change in access, the response time is going to change from 7 – 9 minutes to something like 12 + minutes. That is an additional factor that was not in the report. He and Chief Mergenthaler both feel it is poor planning to keep adding on these little water supplies when they could extend the municipal system out and get some reasonable water supplies and flows and probably a better quality of water for the homeowners. They won't even talk to them about the potential of making that water and sewer district bigger and better.

Chair Varone asked Ron Alles if the Commission has the authority to require annexation?

- 
- **Vendor Invoice Claims and Reports are available for public inspection in the County Budget Office.**
  - Lewis and Clark County will provide appropriate auxiliary aids to individuals with hearing, vision, or speech impairments. Availability of these services will be dependent upon sufficient notice to secure them. For assistance, please contact 447-8305 or TDD Relay Services 1-800-253-4093.

Ron Alles stated the Eastgate Water and Sewer District Association is it's own separate body and the Commissioners cannot require that they accept.

Bruce stated that Chief Mergenthaler and he would approach the Water Districts Counsel and make another effort to see if they can get them to at least think about some potential expansion.

Alan Bock stated he would like to reiterate the original plan was based on safety. It wasn't based on accessibility and the cost of it. They felt the fire department and the access to the school would be much easier on the other side, but due to the opposition they changed their direction.

Chair Varone asked Jerry if the applicant decided they wanted to go back to the original plan, how tough would that be?

Jerry stated the process that the Board follows is that 1) the applicant would need to extend the review period 2) at least 15 days advance notification to the adjacent property owners 3) continue the public hearing until a later date in June.

Alan Bock stated they are not in a huge rush to do something. They just need to get going on the project. If they just have some feeling that there was some backing for going that way, he believes they would look at it. They would rather see the project get done properly than wade into something that doesn't work for anybody in the area.

Commissioner Murray stated they need to get them another way out of the subdivision. It is imperative that the Commission take a hard look at this. If Mr. Bock is requesting an extension, Commissioner Murray asks that the three of them look at the safety aspect of connecting Lone Prairie into Eastgate through a park fund. The Park Board meets tomorrow. That subject could be broached with the Park Board tomorrow.

Alan Bock asked if there was a way for them to stay with what they have now, get approval with some sort of condition saying they could come back and look at the other option? They would like to see some resolution.

Chair Varone stated the option is to keep the review period that ends June 13 and they will consider what's in front of them right now. The other option is to extend to a later period so they may come back with another alternative.

Bruce stated that fire probably isn't a bid deal here. A hazardous materials incident on the highway or the railroad is probably more likely to cause an incident that might require a second way out. He would encourage the Commission to consider all kinds of incidents when thinking of the two ways in and two ways out.

Chair Varone stated that she would like to see access, at least initially, off of Eastgate.

Alan Bock stated they would like to see if it could be approved the way it is with a condition saying they can look at the other. That would allow them to go on.

Jerry Grebenc stated that if the Commission does grant preliminary plat approval to the proposal as was presented today and the applicants wish to come in and change that it follows the formal modification process with public hearing, public notice, all of that.

Chair Varone closed the public hearing.

- 
- **Vendor Invoice Claims and Reports are available for public inspection in the County Budget Office.**
  - Lewis and Clark County will provide appropriate auxiliary aids to individuals with hearing, vision, or speech impairments. Availability of these services will be dependent upon sufficient notice to secure them. For assistance, please contact 447-8305 or TDD Relay Services 1-800-253-4093.

Commissioner Murray moved to render a final decision on Thursday, June 12 in room 309 of this building. Commissioner Tinsley seconded the motion and it carried 3 – 0.

#### Request for an Extension Improvements Agreement for Skyview Subdivision Phase IV

Jerry Grebenc stated Mr. Marshall has requested an extension of the subdivision improvements agreement. Mr. Marshall intends to file the final plat once this is taken care of.

Mr. Marshall stated this is the final phase for this subdivision. The other three have 75 occupied houses. The water storage reservoir is complete. The materials are on hand and they are hoping to start next week on installing the final sewer and water lines. The second pump was placed in the pump house yesterday. This is a four-month extension request. He expects the paving to be done in late September, first of October. There are no other changes.

Commissioner Tinsley moved to approve the extension of the improvements agreement for Skyview Subdivision Phase IV until November 24, 2003 and authorized the chair to sign. Commissioner Murray seconded the motion and it carried 3 – 0.

#### Resolution To Alter the Boundaries of The Lakeside Fire Service Area To Annex Adjacent Land

Marni Bentley reported they received a petition from landowners to annex certain lands into the existing Lakeside Fire Service Area. May 1 a resolution of intent was passed to do this. Public notice was sent out, legal advertising was done and as of May 29 she had received no comment or questions. She has submitted a draft resolution and staff recommends approval of the resolution. This will become affective on August 5, unless they receive 50% protest from the property owners.

Chair Varone opened the public hearing.

Chair Varone closed the public hearing.

Commissioner Murray moved passage of the resolution to alter the boundaries of the Lakeside Fire Service Area and to annex adjacent land and authorized Chair to sign. Commissioner Tinsley seconded the motion and it carried 3 – 0.

Commissioner Murray moved that the \$20 fee collected from each property for the County Fire Department be given to the Lakeside Fire Service Area. Commissioner Tinsley seconded the motion and it carried 3 – 0.

#### Resolution of Intent to Decrease the Scratch Gravel Solid Waste Assessment Rate

Janet Pallister reported that on May 12, the Scratch Gravel Solid Waste Board made a recommendation to reduce the solid waste assessment, the annual assessment rate for the Scratch Gravel Landfill District. The current rate is \$86.00 per year per residential unit. With reducing the rate to \$81.00, they can fully fund personnel services, maintenance and operations and the capital reserve account. In FY04, they are at 94% of funding the recommended balance for the post closure liability account and that is used to monitor the old Scratch Gravel Landfill that is now closed. In FY05, that post closure liability account would be fully funded. This rate decrease was also coupled with another recommendation for the pay as you throw program which would reduce the tonnage limit for that program from two tons annually per household to 1.5 tons. Staff recommends approval of the resolution of intention reducing the Scratch Gravel annual assessment rate and set a public hearing date for July 8, 2003.

Commissioner Tinsley moved to approve the resolution of intention to decrease the Scratch Gravel Solid Waste Assessment rate and set a public hearing for July 8, 2003. Commissioner Murray seconded the

- 
- **Vendor Invoice Claims and Reports are available for public inspection in the County Budget Office.**
  - Lewis and Clark County will provide appropriate auxiliary aids to individuals with hearing, vision, or speech impairments. Availability of these services will be dependent upon sufficient notice to secure them. For assistance, please contact 447-8305 or TDD Relay Services 1-800-253-4093.

motion and it carried 3 – 0.

Resolution of Intent to Increase the Marysville Solid Waste Subservice Area Assessment Rate.

Janet Pallister reported that at the May 12 meeting the Scratch Gravel Solid Waste Board approved a five dollar increase in the Marysville Solid Waste Subservice Area. The current annual assessment rate for Marysville is \$42.00 per year per residential unit and the Scratch Gravel Board is recommending that that rate go to \$47.00 per year per residential unit. In FY04 if the rate is left at \$42.00, there isn't enough money to cover unanticipated expenditures.

Commissioner Tinsley moved to approve the resolution of intent to increase the Marysville Solid Waste Subservice area assessment rate and set a public hearing date of July 8 and also have an information meeting for the residents of Marysville on June 26 at 6:30 p.m. at the new fire hall and authorized the chair to sign. Commissioner Murray seconded the motion and it carried 3 – 0.

Public Comment

No public comment.

Chair Varone adjourned the meeting at 10:25a.m.

- 
- **Vendor Invoice Claims and Reports are available for public inspection in the County Budget Office.**
  - Lewis and Clark County will provide appropriate auxiliary aids to individuals with hearing, vision, or speech impairments. Availability of these services will be dependent upon sufficient notice to secure them. For assistance, please contact 447-8305 or TDD Relay Services 1-800-253-4093.