

NOTICE OF SUBDIVISION MEETING

July 24, 2003

Chair Anita Varone called the meeting to order at 9:00 a.m.

Commissioner Tinsley is present, Commissioner Murray should arrive shortly. Others attending all or a portion of the meeting included Sharon Haugen, Art Pembroke R.M. Hudnall, Edith Taylor, Archie Taylor, Dean Retz, Bruce Suenram, Jason Mohr, and Darby Revious.

Pledge of Allegiance. Everyone recited the pledge.

Network Access Agreement. The Commissioners will consider the agreement with the City of East Helena. Art Pembroke. This is the annual agreement we have set up now with the City of East Helena, the police department out there to provide network services that allow them to communicate with the new public safety system up at the law enforcement center. These rates were based on existing network rates that are being charged to other city and county departments internally as well as this year they put on an administrative fee to cover some of the overhead costs. I would ask your approval.

Commissioner Murray: Madam Chair, the East Helena City Commissioner has reviewed and recommended approval also.

Chair Varone: I believe they already signed, already signed by Mayor Ed Murgel and City Attorney Mike Riley.

Commissioner Murray: I noticed that to, I just wanted to get that on record.

Art Pembroke: and this has been reviewed by the County Attorneys' office before we sent it out to East Helena for their signatures.

Chair Varone: Thank you. Any further questions? What's the pleasure of the commission?

Commissioner Tinsley: Madam Chair, I make a motion that we approve the Network Access Agreement between IT, between IT and the City of East Helena and authorize the chair to sign. Is that good enough?

Commissioner Murray: Second.

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries.

Proposed Major Subdivision, Preliminary Plat to be known as Rosemary Acres, Lot A1 Amended. (cont. from 7/8/03) (Applicant, W. J. Truscott) (Planner, Michael McHugh) The Commissioners will consider creating forty (40) lots, each for one single-

family dwelling. The subject property is located in the SE1/4 of Section 24, T11N, R4W; generally located east of Green Meadow Drive and north of John G Mine Road.

Chair Varone: Commissioners? I do believe there is a variance request, thank you Commissioner, we need to consider first. The variance requested is the existing public access and underground utility easement on Best Place Road is recorded at 50-feet. Proposed public access and underground utility easement on internal access roads 60-feet will connect with Best Place Road.

Commissioner Murray: Madam Chair, as I understand the easement they want to go from 60-feet to 50-feet.

Michael McHugh: What the request for variance is, is that in 1996 the Board of County Commissioners granted a variance for a 50-foot right-of-way easement for the internal road network within the Applegate Village Subdivision. This proposed subdivision would utilize that access, the County Subdivision Regulations require a 60-foot wide right-of-way easement for the entire length of it and so for this subdivision to be approved, we either have to grant the variance or require the applicant to go out and acquire an additional 10-feet of right-of-way easement within the Applegate Village Subdivision or deny the proposal because it doesn't comply with County Subdivision Regulations meeting the two access routes requirement.

Commissioner Tinsley: Madam Chair, Commissioner Murray, Mr. McHugh. When you say they have to go out and acquire that extra 10-feet is that just for the piece of road that connects with Best Place Loop.

Michael McHugh: It would be the entire Best Place

Commissioner Tinsley: including Best Place Loop

Michael McHugh: and also the platted access easement that would rescind from the existing road right to the subdivision.

Chair Varone: Commissioners, Mr. McHugh. Last night I drove out there last night and that is one of the most, Best Place Loop area is one of the most beautiful I've seen in the Valley and the best maintained that I've seen in a long time and I took particular notice to the variance request between the houses and from what I understood from our presentation last week or earlier, Michael you indicated that one of the homes was built so that its back deck,

Michael McHugh: It's an encroachment within the easement.

Chair Varone: so, in order to buy the additional land, it would be difficult or impossible for this applicant to purchase the land to make that work and if the applicant would be required to completely redo that whole loop as well, those homes there, there are several under construction, but many of the homes already completed and landscaped and the road is paved and it's beautifully done.

Commissioner Tinsley: I guess the only problem I have, Madam Chair excuse me,

Commissioner, I guess the only problem I have with it is I drove out there as well and there was some construction going on in that Best Place Loop subdivision or the Applegate subdivision and there were people parking on the streets and it was kind of tough to maneuver through on that road and this is a tough one. I don't like the fact that we allowed a subdivision to be built below the required, recommended width of the road. I don't think it's good government and I don't think it's good business. And I'm not so sure that doing it again for this one, just because the previous one was done makes sense either. But I also understand Mr. Retz is a very conscientious developer and this is a tough one, I'm still debating on where I'm going to go on this in the next couple minutes.

Michael McHugh: Madam Chairman, just for the record I'd like to point out that all the new roads would be at the 60-foot, the variance is for the existing roadway that connects this, if that clarifies anything.

Commissioner Tinsley: Madam Chair, may I ask a question?

Chair Varone: Sure

Commissioner Tinsley: I apologize for my voice I'm just getting over losing it last week or a couple of days ago, so it's coming back. Mr. Mc Hugh you're saying regardless of the variance or the variance not withstanding the roads in this particular the in the Rosemary subdivision will be at 60-feet.

Michael McHugh: They will be at 60-feet. The variance is only for the existing road network and that short extension within the Applegate Village it has nothing to do with road network

Commissioner Tinsley: Within Rosemary.

Michael McHugh: Yeah. That will all be County standards, it's just for the existing. County Subdivision Regulations require the entire length of the road accessing it be at 60-feet.

Commissioner Tinsley: That's what the variance is regarding. Okay.

Michael McHugh: It only deals with the roads within Applegate Village.

Chair Varone: So, it's just that short area, it's not the whole loop road.

Michael McHugh: No, it's the whole loop and the extension.

Commissioner Tinsley: But these roads still be 60-feet.

Michael McHugh: Yeah. Correct. All the new ones will comply with County Subdivision Regulations.

Chair Varone: The information that I've read and the familiarity I have with cluster development, if I understand it correctly cluster development sort of supports narrower roads in order to intentionally slow down traffic in the subdivisions if I'm not incorrect.

Michael McHugh: There is a standard within the County Subdivision Regulations that does allow for narrower right of ways, but it has a limit on the number of homes as being served, 10 or under, and the caveat is there's no possible extension of that roadway network and when Applegate Village was approved there was the intention of providing access to the property to the west for additional development so it was kind of

Chair Varone: Commissioner.

Commissioner Tinsley: Madam Chair, You are correct I believe in your assessment of cluster development and the wish I guess of those of who pursue Cluster loans bring smaller roads in due to traffic safety, however I think that goes hand in hand, it should go hand in hand with requiring sprinklers in the homes because sprinklers knock down, I forgot what the figure that Terry Phillips gave us, but 90% of the fires that occur in the home could be knocked down by a sprinkler which helps with the response time particularly for our rural fire department, so you are correct but I think that goes hand in hand with other safety requirements of the home including sprinkler systems.

Commissioner Murray: Madam Chair, Commissioner Tinsley. I don't believe cluster development calls for narrower street. I too visited this property and the case of the Best Place Street there is no guest parking for the residents in that subdivision. That is a mistake that we made I believe and that we need to correct in subdivisions. Construction workers building two of the new homes there were parked in the street as far off the street as they could safely get, but it reduced the traffic to one lane and a very close one lane as you passed these cars. To move this along, I would move approval of the subdivision as requested by the applicant.

Chair Varone: Are we talking about the variance?

Commissioner Murray: The variance, yes

Commissioner Tinsley: Second

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries. Commissioners, what's your pleasure on the application in general?

Commissioner Murray: Madam Chair, I move approval subject to 16 conditions that's proposed by the planning department.

Commissioner Tinsley: Second

Chair Varone: Discussion. Commissioner, the applicant has requested condition of approval number 6 to be modified. They're asking that the proposed language be changed, they're asking for a couple of things. To read from the internal access roads Sagebrush Dr and Rosemary Dr with John G Mine Rd encompassing 21 additional lots that would be completed under phase 1. The remaining 19 lots would be completed

under phase 2 and/or phase 3 for the intersection of the internal access roads with John G Mine Rd and the connection of with Best Place Road Loop. I believe what they're asking for is that they not have to complete the roads all at one time but rather include them according to the phasing in of the subdivision.

Michael McHugh: Madam Chairman, according to County Subdivision Regulations all major subdivisions are required to have two access routes and what the staff is recommending is that you have the connection to Best Place Loop and John G Mine Rd. Those roads do not have to be constructed to the asphalt mat standard until they reach the 400 trips per day, the ground standard and then once they reach that threshold staff does believe the way that the existing number 6 is written does that, if the Board of County Commissioners approves the applicant proposal you're going to have to give a temporary variance to the wells.

Chair Varone: Commissioners, if we offer an alternative, somehow the line could be added to condition of approval number 6 that requires the applicant to do that connection to the Best Place Road and then as they phase in then they add their roads, that would allow

Michael McHugh: That is the normal practice of phasing in Major Subdivisions, it's never been required that the applicant has to build the entire road network, it's only that they have to meet the minimum standards which is the two approach routes. They don't have to pave until they, until it meets the threshold.

Chair Varone: But it also says improvement shall extend to the property boundaries and shall include all required cul-de-sacs.

Michael McHugh: and that would be at the time that everything was completed, the Subdivision Regulations under phasing requirements allow only the roads and the infrastructure needed to serve the portions that would be constructed at that time, that phase be done as long as they meet the certain minimum requirements.

Chair Varone: Are those in the Subdivision Regulations or those a policy.

Michael McHugh: Yes. It's in there; it's in the Subdivision Regulations where it allows for phasing. In the phasing, it allows certain lots to be platted as long as you meet that and so what this one is talking about final design of the whole thing. If the applicant does not plat phases two and three they don't have to construct those roads but they still need to have the required two access routes.

Chair Varone: Thank you. Any questions?

Commissioner Murray: Madam Chair, Commissioner Tinsley, Michael. Has Mr. Retz submitted a temporary variance request?

Michael McHugh: He doesn't have to submit a variance request if this language complies. The language Commissioner Varone proposed would require because it talks about the phasing and what he's talking about is more south where you would not have the connection to Best Place Loop Road.

Chair Varone: And just for the record, it's not what I'm proposing, I'm just addressing the request from the applicant and I believe it deserves discussion. Commissioner Tinsley.

Commissioner Tinsley: Madam Chair, Commissioner Murray. I'm very comfortable with the language staff has recommended for number 6 and the way it was explained now even makes me more comfortable. I'm fine with the way it is.

Chair Varone: Additionally, the applicant is asking for additional language that includes, it says on the approval of the cul-de-sacs on lot A1-22 and A1-40 shall extend to the property boundaries and I believe what the, Michael and the rest of the staff are requesting are no cul-de-sacs be approved but the road continues to the property boundary. When I drove out there, it seemed to me if you look at the plat, what the applicant is requesting that the southern road and there's no name on it, that cul-de-sac be extended, but the middle two not to be extended and that seems reasonable to me since there are only, there will only be two houses between the streets if each cul-de-sac would be extended to the end. In this instance, it looks like, if we go ahead and allow the cul-de-sacs in the middle there'd be 4 houses before another ingress/egress is available to the access and that seems reasonable to me.

Commissioner Murray: Madam Chair, I believe the argument presented by staff, the purpose of extending this through even though it seems reasonable is to provide future easements for other subdivisions that may come up in that neighborhood and with your permission, I ask Mr. McHugh to comment.

Michael McHugh: Staffs recommendation is based on development, based on properties, its' also the recommendation of staff to extend these and require the construction to prevent the problems that we had with Applegate Village where there was platted easement and people may have been or may not have been aware this way, with the road actually constructed there people can decide the proper location for homes and other improvements on the property. There will still be cul-de-sacs there, that would be temporary and at the time of development of adjacent properties, those cul-de-sacs would be narrowed and

Chair Varone: so, Commissioners we final number 6 as it is. If I could ask the Commission to add a condition of approval 17, I understand this subdivision is for single family dwellings and the lots are 1.1 acre what I'd like to do is add a prohibition against livestock and I don't have the language for that, Michael.

Michael McHugh: The proper place for that would be under condition 13 those covenants, we'd replace covenant number 'i' that would prohibit the keeping or confinement of livestock or other large animals on property.

Chair Varone: Commissioners interested?

Commissioner Murray: So moved.

Commissioner Tinsley: Madam Chair, Second. This is my attempt to humor this morning. I saw a show the other day where these people were keeping pet pigs inside, does that include domestic. These people actually had pigs living in their house; they

were some kind of specialty pig I guess.

Chair Varone: Pot Belly Pigs.

Chair Varone: All those in favor signify by saying 'I'

Commissioners: 'I'

Commissioner Murray: Madam Chair, Commissioner Tinsley. Condition number 10 I would like to add the language somewhere within it 'within the subdivision'. I don't want the mailboxes out on John G or Best Place Rd. I would like them placed within the subdivision. If that fits in the first sentence.

Chair Varone: I believe that would work Commissioner, The applicant shall provide neighborhood mailbox units for the entire subdivision, for the entire and within the subdivision. Do I hear a second?

Commissioner Tinsley: Second

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries. Are there any other, any other discussion before we vote?

Commissioner Murray: Madam Chair, in making a motion to approve this, I do it with great concern. We're in the sixth year of a drought, again, approving a subdivision is going to use water. I believe this land is best suited for a subdivision and ultimate development, but at some point I think we're going to have to find a water source and be providing water to the Valley and perhaps a water district. I don't see the drought getting a lot better and I want to be on the record that I'm aware in making the motion to approve this I'm aware of the drought problem and the water problems we have in the valley.

Chair Varone: Commissioners if I may

Commissioner Murray: Excuse me Commissioner, Mike also wanted to comment on my remarks.

Chair Varone: Commissioners if I may, Mike I'll get you in just a second. I absolutely agree with what you're saying and we've had some few discussions in the past. It's my understanding that both you and Commissioner Tinsley have kind of a road survey with, what's his name?

Commissioner Murray: Mr. Taylor

Chair Varone: With Mr. Taylor regarding the issue of possibly putting in or establishing some sort of water system for the Valley and next week I'm will be going, Mr. Taylor he'll afford me that same review and I'd like to see us move forward sooner rather than later on that. Michael.

Michael McHugh: I just wanted to point out for the record condition 13g, provides for a waiver of protest joining a water or sewer district for providing community water and so hopefully when that source is available.

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries

Modification of Conditions of Approval for the South Boundary Acres II Major Subdivision. (cont. from 7/8/03) (Applicant, Archie Taylor) (Planner, Jerry Grebenc)
The Commissioners will consider modifying condition of approval #6 (implementing or installing a fire protection water supply). The proposal is located adjacent to and south of Boundary Street, approximately ¼ mile east of Lake Helena Drive.

Chair Varone: Jerry, did you have anything?

Jerry Grebenc: Madam Chair, Commissioners. At the close of the hearing, the commission asked for pertinent documentation that had been mailed back and forth between the applicants, Eastgate Fire Departments and staff and I did provide that with memo, I hope that Commission has that. Also at the conclusion of that hearing, the commission asked that Mr. Suenram provide language in regards to fire sprinklers, I have submitted that to you just a bit of modification including Eastgate Fire Department within that. Additionally I gave you a memo this morning, Commission asked that language be drafted that if there was a water supply on the applicants property at Eastgate, the Fire department will be responsible for the maintenance, I did draft that for you, you should have that memo before you. The applicant is here and unless you have questions for staff, that's all I have.

Chair Varone: Thank you Jerry. Any questions of Staff?

Commissioner Murray: Madam Chair, Commissioner Tinsley. I would ask staff if Mr. Taylor has received copies of all the memos.

Jerry Grebenc: Mr. Taylor has received copies of the memos that I gave you today. All the other documentation, the applicant should have in his packet. I can certainly make copies of it; it's documentation between his attorney and Eastgate. So Staff did make the assumption that Archie did have all this, but I'd be happy to make copies of all this.

Commissioner Murray: Madam Chair, Commissioner Tinsley. I believe Mr. Suenram is representing Eastgate Fire Department and I'm not sure he is prepared to speak to the condition proposed by staff that the Fire Department will be responsible for maintenance. I agree with the condition, but I don't agree with the condition without the Fire Department having the opportunity to review it. So with your permission, I'd like to give the question to Mr. Suenram.

Chair Varone: Mr. Suenram

Bruce Suenram: Madam Chair, Members of the Commission. Historically the Fire Departments have been opposed to that condition although it has been imposed in the past. I think I'd be real safe in saying they'd be opposed to having to maintain that and hopefully the ultimate resolution will be the revised subdivision regulations.

Chair Varone: Commissioner Tinsley.

Commissioner Tinsley: Can I ask a question of Mr. Taylor?

Chair Varone: Sure

Commissioner Tinsley: Again, pardon my lack of voice here. Mr. Taylor, what is your water source for that property now?

Archie Taylor: Community water

Commissioner Tinsley: I'm sorry, what?

Archie Taylor: It's a community water system that ruger owns, ruger maintains, ruger water maintains. They are, they have two wells that they take care of.

Commissioner Tinsley: Those wells are on your property.

Archie Taylor: Uh, yeah. One of them is, one of them isn't. It's on theirs.

Commissioner Tinsley: So one of those is yours and one is theirs.

Archie Taylor: Well, technically it really isn't mine because of the agreement I had with them, that the well was in place they would take charge of that well and service the other thirteen lots involved because that's a requirement that's required by DEQ

Commissioner Tinsley: So essentially you gave up your rights to those wells.

Archie Taylor: Yes I gave them along time ago. There's nothing I can say that would change my rights to those wells because of the agreement we made with them when I took over the 13 lots originally. I informed the water district myself and than as soon as the bylaws of the water district some of the residents were there that they would take over the water district and that's what happened. And those agreements said that I'd turn over all the water to the homeowners association. I'm not sure if they've done that or not but at least the water association is still in existence and they are in charge of paying the bills and maintaining the wells, so I really don't have nothing to do with them.

Commissioner Tinsley: So to comply, I'm sorry Madam Chair, Commissioner Murray, so to comply with the requirement of the condition, you would either need to negotiate with him and make some kind of agreement or drill another well.

Archie Taylor: I don't think I can drill another well.

Commissioner Murray: Madam Chair, Commissioner Tinsley. Mr. Grebenc. In your proposed condition for the Fire Department, I believe it leaves room for ambiguity. What my intent is and hopefully the intent of the other two commissioners is that the Fire

Department has an obligation to maintain the hydrants, they have an obligation to test the hydrants, they have an obligation to see that the draft site works, they do not have an obligation to ensure that water is available. They do not have an obligation for any piping, drilling of new wells. There's a clear differentiation here that I believe professionals need to test hydrants, and you need to test water that comes out of a draft site, but the fire department has no responsibility. The Homeowners Association has a responsibility to see that water actually gets to the hydrant so it can come out. That's not the Fire Departments, and I think in your condition I'm reading ambiguities and maybe I'm just wrapped around the axles.

Jerry Grebenc: Madam Chair, Commissioners. The first issue that the Commissioners, and I should step back the memo I gave you today would only apply if the Commissioners required the applicants to put onsite water. If the Commissioners decided to give the applicant the option of either a per lot fee or water, it's likely that the applicant will pursue a per lot fee. So the memo I gave you today, only applies if Commission requires an onsite water and I'd be more than happy to narrow this down to what exactly the Fire Department would and wouldn't be responsible if that was the wish of the commission probably the best thing to do is to work with Bruce and Ken Mergenthaler to determine exactly what they'd maintain.

Chair Varone: Commissioners, I'd like to direct you to a letter that was sent to Robert Rasmussen on June 13th from the President of the Water Association there, Nick Nelson. He quotes Article 1 Section 104 of the State Code that says "Grants the Fire Chief the power and authority to direct such operation as may be necessary to extinguish or control any fire... taking any other action necessary in the reasonable performance of their duty". Section 10.203 places control of fire hydrants, whether public or private, under the authority of the fire chief as long as the hydrant is intended for use by the chief for fire suppression. When I went out there last night and took a look at it and the fire hydrant is right on the corner of where that subdivision is going to be and that being the case, I think the request of the applicant to have condition of approval number 6 be removed, the obligation be removed and that just a \$500.00 fee be required to be paid to the fire department per lot. The water's there and legally they have access to it and the water, I don't know what the name of the water group is out the association is out there, but clearly they understand that's something that's available.

Commissioner Murray: Madam Chair, Commissioner Tinsley. The point I was trying to make and I appreciate you reinforcing the quote is that I believe we have an obligation to ensure that the fire departments obligation stops at the bottom of the hydrant. There has to be water from there to the source is the homeowners' responsibility.

Chair Varone: Thank you Commissioner Murray. I'm not disagreeing with you at all with your statement, I just wanted to talk about the fire hydrant that's right there on the corner and should that particular portion of the condition of approval be removed then there'd be no need for the statement about maintenance.

Commissioner Murray: Madam Chair, before I make a motion do you wish to comment or suggest inclusion of the work that you asked Mr. Suenram to do as far as sprinkler systems.

Chair Varone: Yea, I do have some questions of Mr. Suenram. Mr. Suenram if you wouldn't mind, would you tell me what FPAHJ means?

Bruce Suenram: Fire Protection Authority Having Jurisdiction

Chair Varone: and is that the fire department?

Bruce Suenram: Yes.

Chair Varone: That's what I thought it meant. Could you please let me know why you're asking the fire department to have jurisdiction over this when the state clearly requires certification and endorsements for this.

Bruce Suenram: Madam Chair, Members of the Commission. The State only has certification and endorsement authority for installers and designers. There is an exclusion under that authority for homeowner installed fire protection systems. The other reason that you raised at the last meeting was the fact that there is no building officials in the County and so the only way this is language that was taken from Gallatin County, the only way they found that they could track all the sprinklers in the home was to have this tracking process. I should lay out to you that my client does not endorse this, he felt, they felt that they had a deal in January, we discussed all the alternatives he would like to renege on his side of the agreements but we're going to stay there so. We, the fire department is not willing to accept sprinklers and the fee or anything else (unknown). He would like to stick with the deal we had in January, which is 500 gallons a minute for an hour.

Chair Varone: If I could respond, I was the individual that developed the requirement for licensure and endorsement for fire protection equipment for the State of Montana while in the Office of the State Fire Marshall and subsequently it moved over and it's currently in the Department of Labor and I made a phone call yesterday to make sure that that was still required, it's been 5 or 6 years ago since that was done and I pretty much lost touch with that and if I can offer some alternatives on language and I made copies for each one of the Commissioners and I think the fire department may be agreeable with because Bruce I believe that we should have an alternative for fire sprinklers and I understand the fire departments reluctance to take any of this thing over but there's still a need, so the language I am proposing we add to this we'd end up having an 'a' with the 60 minutes or a 'b' contribute 500 per lot or however we do that and it says and just let me know what you think of this it says: "installs sprinkler systems in each residence. The system shall be installed by an individual who is endorsed by the fire prevention and licensure program for the State of Montana and is employed by a company licensed to install fire protection equipment. The applicant shall provide copies of the license and endorsement to the Eastgate Fire Department to verify qualifications'. What that does is gives us assurance to the Fire Department that they're qualified to do it, but it relieves the fire department from doing any type of inspection or anything like that.

Bruce Suenram: So, Madam Chair, Members of the Commission. So, what your intent is by your language is to eliminate the opportunity for the homeowner to do it himself. Is that what your

Chair Varone: yes,

Bruce Suenram: I guess what

Chair Varone: that's what I'm doing. If it's going to be done, it has to be done by an endorsed individual who works for a company that's licensed to do it. That way, because the certification and rigid requirements they have to undergo it prohibits them from putting it in themselves. I think that's what you were trying to get at anyway.

Bruce Suenram: Madam Chair, Members of the Commission. I suspect the fire department would support that if they were willing to go back and adjust their decision that we agreed to in January. At this point I have to tell you they are not willing to do that.

Chair Varone: I think they'd probably jump on this, but I know you can't speak for them unless they have a chance to look at it.

Commissioner Murray: Madam Chair, Commissioner Tinsley. Mr. Suenram, do you know if the hydrant in place is capable of producing 500 gallons per minute for 120 minutes.

Bruce Suenram: Madam Chair, Commissioner Murray. I don't know for sure, I would suspect it does. The issue again is that hydrant; number one it's outside the project and its being paid for by other people. Number two, portions of this subdivision will be in excess of the thousand feet from the fire hydrant and thus part of our logic originally requiring the three tiered conditions was the intent of the fire district was to try to certainly expand the Eastgate water district or have this project strike a financial deal so that they weren't getting a free water ride for fire protection. Unfortunately, that blew up in our face, so.

Commissioner Tinsley: Madam Chair, I'm going to make a motion now if that's acceptable. I would like to move that we, I would like to move a condition, move to modify condition 6 to the existing language and strike a and b with a new a b I think it was the former c, I'll read it. 6a would read the applicant shall install onsite fire protection water supply capable of delivering 500 gallons per minute for 60 minutes instead of 120 as it said accessible by a wet hydrant, i.e., pressurized. In 6b, I would include the language that you passed out to us labeled 6c and that would be the only two choices under 6 and that's my motion.

Chair Varone: So your not recommending that we include staffs recommendation would be 'a' we would have 'a' with the 60 minutes or 'b' with this sprinklers, but you're not recommending for contributing \$500.00 per lot.

Commissioner Tinsley: No Mam.

Commissioner Murray: Madam Chair, Commissioner Tinsley. Why 60 minutes rather than 120.

Chair Varone: That's what the fire department recommended, modified it to

Commissioner Murray: Thank you, I was just thinking that.

Commissioner Tinsley: They negotiated that in January.

Commissioner Murray: and the or is 6c is in today's handout?

Commissioner Tinsley: yeah

Commissioner Murray: Second

Chair Varone: Discussion. Jerry.

Jerry Grebenc: Madam Chair, Commissioners. I am assuming that what with now what theoretically would be 'b' as the language that the Chair formed.

Chair Varone: It would read if I'm understanding 'a' would be 'the applicant shall install onsite a fire protection water supply capable of delivering 500 gallons per minute for 60 minutes, accessible by a wet hydrant, i.e., pressurized or 'b' install sprinklers in each residence. The system shall be installed by an individual who is endorsed by the fire prevention licensure program through the State of Montana and is employed by a company licensed to install fire prevention equipment. The applicant shall provide copies of the licenses and endorsements to the Eastgate Fire Department to verify qualifications.

Jerry Grebenc: Madam Chair, Commissioners. What I might recommend if you don't mind is I would add that to the covenants to ensure that when a home owner purchases a lot, if it's your intent to pass this, that way it's in the covenants that the Board of County Commissioners placed this on the property and bear with me, I can tell you where it goes in the covenants

Commissioner Murray: Mr. Grebenc, as I understand the motion before us, the applicants would have, I guess they wouldn't

Jerry Grebenc: and if the Taylors did sell the property to a developer, a builder or somebody else theoretically it would ensure that that follows the property, that condition.

Chair Varone: So 16, or 6 would no longer be a condition at all. That the language would be moved to 13.

Jerry Grebenc: I would put it in both, that's what I would recommend but at least if it's in the covenants than when a person purchases a property it should be in their hands at some point in time.

Commissioner Murray: Mr. Taylor, the advantage for people building a home as was presented to the Commission by fire departments trying to get us up to speed is that a sprinkler system would only use approximately 86, 89 gallons of water and would limit it to the zone. So the advantage for the homeowner instead of the thousands of gallons of water they would have putting their fire out, the fire could be extinguished with a sprinkler system limiting it to approximately one room of their home and limiting it to 86 gallons of water which is ideal if somebody's building a new home. Those of us that have homes, it's probably cost prohibitive to put in a sprinkler system like this, but in

new construction it's the way to go in my opinion.

Commissioner Tinsley: Madam Chair, Commissioner Murray. Commissioner Murray is exactly right, and also during that same presentation Marshall Phillips, State Marshall Phillips indicted to us that they're new products on the market that will connect to the plumbing inside the house instead of having to have a separate system like they historically had. So you can connect right to your own plumbing in your house to run off the same system. It's cost effective and knocks down, and I can't remember the percentage, but a large percentage of home fires before the fire department even gets there and saves a lot of property that needs saved.

Chair Varone: The cost of the fire sprinkler suppression system if that's all you do, the cost has gone down considerably and Bruce you probably know more about this than I do since you're so up on it. But it's my understanding that for a residential installation it's somewhere in the neighborhood of \$1,500.00. Is that correct? So it is very affordable. So what I would ask the Commission to do though because there is, I wouldn't do this normally, but because there is a fire hydrant right on the corner, I would like the Commission to add the third 'or' that says contribute \$500.00 per lot to Eastgate Fire Department.

Commissioner Murray: Madam Chair, I'm concerned about the 1000' hose line to get to the extremity and the fact that the new home owners other than the cost per lot they wouldn't be contributing to the fire system. My concern for that.

Chair Varone: I guess my thought about that is the \$500.00 per lot goes directly to the fire department and that could be included in suppression equipment that could not only be used for that subdivision but for other subdivisions and that's my intent there and because the fire hydrant is there and provides them the ability to expand equipment that they have.

Commissioner Murray: Questions?

Chair Varone: All those in favor of modifying condition of approval as previously stated and including in condition of approval number 13 please signify by saying 'I'

Commissioners Murray and Tinsley: 'I'

Chair Varone: Opposed. No. And the only reason I'm saying No is because I believe the \$500.00 alternative should also be added and I appreciate the Commissioners support for the sprinklers. Bruce if you would take the language back to your fire department and ask them about it, I'd appreciate it. Commissioner Murray I believe you have another condition of approval to ask staff regarding maintenance.

Commissioner Murray: Well since the maintenance requirement comes in to play because the individuals have come up with a water source for in there covenants regarding people putting in a sprinkler system.

Chair Varone: I have language that I indicated because if they decide to go with the fire protection water supply with the 60 minute hydrant gallons for 60 minutes there's going to be a maintenance requirement and what I indicated was the Eastgate Fire

Department shall be responsible for maintenance of 6a if selected by the applicants and that was before I got the language the Jerry provided. I think that the fire department should still have an obligation for maintenance if that is selected. That language might read that the Eastgate Fire Department shall only be responsible for the maintenance and testing of all fire protection infrastructures such as hydrants, draft sites, etc within the subdivision if condition of approval number 6a is selected.

Commissioner Murray: Madam Chair, the draft site and the hydrant are not on the property. If you want this for the new water source for this to be selected I'd be happy to accommodate and make a motion that the fire department is responsible to the bottom of they hydrant and to test the equipment, but not for the availability of water like piping of water to the outlet.

Chair Varone: I think it's important

Commissioner Murray: So moved.

Chair Varone: Jerry, can you provide the language for that.

Commissioner Murray: second that?

Commissioner Tinsley: Second

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries.

Jerry Grebenc: Madam Chair, Commissioners. There was one other issue regarding the roads, it's just a formality. (unknown)

Chair Varone: Thank you for reminding us Jerry. It's condition of approval 18; the applicant shall construct all of the internal access roads as indicated on the preliminary plat to County roads standards (Typical Section No.3, Peccia) including the cul-de-sacs.

Commissioner Murray: Madam Chair. Help me understand

Chair Varone: It's right here. It's cleaning up the language from staff. When the application was originally done, this is normal language that's included with some houses; it was not included with this instance. Is that correct Jerry?

Jerry Grebenc: Exactly

Commissioner Murray: Madam Chair, Commissioner Tinsley. Mr. Grebenc, did you run this by legal counsel?

Jerry Grebenc: Absolutely. Madam Chair, Commissioners. Due to the fact that this subdivision was brought to you for modification according to the County Attorneys Office

that opens the entire subdivision up for review. The Commissioners have the ability to add anything pertinent to the approval, this simply is housecleaning to ensure that that is done and the roads have been put in, the thing is that the applicant could very well sell the subdivision to someone else and just ensures that the roads meet those standards.

Commissioner Murray: Madam Chair, I would move condition number 18 as proposed by staff.

Commissioner Tinsley: Second

Chair Varone: All those in favor, signify by saying 'I'.

Commissioners: 'I'

Chair Varone: Motion carries. Mr. Taylor, Mrs. Taylor congratulations. Please work with staff as you move forward on development of your subdivision and if you have any questions later on work with Jerry or work with Sharon and we'll do whatever we can to work with you. Thank you.

Proposed Minor Subdivision, Preliminary Plat to be Known as the Mason Commercial Minor.(cont. from 7/22/03) (Applicant, Heath Mason) (Planner, Jerry Grebenc)

The Commissioners will consider creating a commercial storage facility with 40 units. The proposal is located in the NE1/4 of Section 30, T10N, R2W and generally located south of and adjacent to East Main and northeast and adjacent to Roselak Road.

Jerry Grebenc: Madam Chair, Commissioners. At the end of the hearing on Tuesday, there was some discussion about soils issues, lead contamination on the property. I did call the lead abatement office on Tuesday, and discussed the matter with them. They were going to check on the property and see if any testing had taken place. I haven't heard from them, so staff will recommend that we put our normal language in there about soils testing and abatement. If necessary, the applicant will need to have the soils mitigated and hauled off to the East fields.

Chair Varone: Commissioners. Thank you Jerry for preparing that language. This doesn't say if necessary, do you think we should include the language 'if necessary' or should we keep it the way you stated it.

Jerry Grebenc: Well we leave it up to the lead office to determine whether the lead levels are high enough. This statement 'if action levels are present' they have to provide documentation from the Helena Lead Office saying that action, if the levels are low enough no action is necessary. If they cannot provide that documentation then staff can't tell you that their findings site plan is complete. We can definitely do shall, it's just you never know unless you have the test in hand.

Chair Varone: What I don't want to do is require them to do it when it's not necessary, but if this language takes care of it then we're okay.

Jerry Grebenc: We let the lead office, they follow the EPA guidelines and if it's determined that they need to commit to remediation they have to do that before they can build the storage units.

Commissioner Murray: Madam Chair, Commissioner Tinsley. I move for approval of the Mason Commercial Minor subject to 13 conditions as recommended by staff.

Commissioner Tinsley: Second.

Chair Varone: All those in favor signify by saying 'I'

Chair Varone: Discussion?

Commissioner Murray: Discussion. Madam Chair, I would move addition of a 14th condition as proposed by staff.

Commissioner Tinsley: Second.

Chair Varone: All those in favor signify by saying 'I'

Commissioners: 'I'

Chair Varone: Thank you for protocol. Commissioner I appreciate it. All those in favor of the 14 conditions as stated, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries

Request for Extension of the Improvements Agreements of Golden Estates III (Jerry Grebenc). The Commissioners will consider the extension.

Jerry Grebenc: Madam Chair, Commissioners. The Golden Estates III Major Subdivision was granted final plat approval last summer. The applicant, Ron Yuhas, entered into a improvements agreement with the County, that improvements agreement is coming to expiration within a couple days. The applicant has completed all of the work with the exception of the sidewalks. That work has been certified by Stahly engineering as been instructed. The applicant is requesting and extension of the existing improvements agreements solely towards sidewalks, the applicant has submitted a bid and should have a copy of his cashiers check to secure those sidewalks. Staff recommends that the Chair sign the extension.

Chair Varone: Any questions of staff?

Commissioner Tinsley: Madam Chair, I make a motion we approve the request for extension of the Improvements Agreement of Golden Estates III and authorize the chair to sign.

Commissioner Murray: Second

Chair Varone: All those in favor signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries.

(Tape Ended)

Final Plat Approval.

Juedeman Minor (applicant, Buck Juedeman)
Roth Minor (applicant, Lynn Marie Hills)

Frank Rives: Madam Chair, Members of the Commission. I have been working with both of the applicants up to representing the pending cattle company and Roth Minor. They've worked with staff to complete all the conditions of approval. They've met all

conditions of approval and we're ready to go forward with the acceptance of the final plat and signing of the plats.

Chair Varone: Commissioners. Protocol again, can we do these together or should we do them individually?

Chair Varone: By consensus. Thank you.

Forest Receipts Declaration – Title 2 The Commissioners will consider the declaration.

Chair Varone: There are no documents for this, the documents should be available by the end of the Month and there may be a requirement that this be done by the end of the Month in order for the change to take place.

Commissioner Tinsley: Madam Chair, Commissioner Murray. Ron dropped by my office right before he left and asked me to speak. I think we are all aware of what our choices might be here and again as you stated there are no documents. Essentially, what staff is suggesting is that we pursue this time around pursue going after Title 2 money instead of Title 3 and the difference of the two is we have to create a resource advisory committee but it won't be used against the formula (unknown) as it is currently with the Title 3 money. We have \$120,000.00 in the pot keeping the Title 3 section in use. We can always go back to Title 3 if we want to. What this will allow us to do is expand the scope of the work that we do now on projects in the County and I agree with Ron and staff that this is worth exploring. I was initially opposed to this, but we can always go back after exploring.

Chair Varone: Is that a motion?

Commissioner Tinsley: I'll make a motion that we approve it.

Commissioner Murray: Second

Commissioner Tinsley: Essentially my motion is, let me make sure its safe, my motion is to approve the Lewis and Clark County pursue Title 2 funds this year and authorize the chair to sign all the paperwork by the addendum.

Chair Varone: Second?

Commissioner Murray: So moved.

Chair Varone: All those in favor signify by saying 'I'.

Commissioners: 'I'

Chair Varone: Motion carries

Request for early purchase for Cooney Home Nurses Call System (Janet Pallister)
The Commissioners will consider the request for replacing the Nurses Call System.

Chair Varone: Is there anyone here to speak on that today? I spoke to Ron before he left and there's a letter here from Janet Pallister that indicates that they'd like to get started on this as early as possible and request the funds be released.

Commissioner Murray: So moved.

Commissioner Tinsley: Second.

Chair Varone: All those in favor signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries.

Board Appointment. The Commissioners will consider an appointment to fill the vacancy for Environmental Specialist for the Health Department.

Chair Varone: It looks like we have two applications, one from Mr. Ken Wallace and one from a Ms. Jennifer Wintersteen. Commissioners do you have any discussion?

Commissioner Murray: Madam Chair reviewing the two applications, what struck me about Ms. Wintersteen is that she is actively engaged as an environmental scientist for the US EPA and is seeking this position as one way of volunteering her services to the Helena community. The fact that she's, I happen to assume she's current because she is employed as an environmentalist and it leads me to put a little more weight in her application although Mr. Wallace has a thorough application, his MS is in geological resources and geology and his experience is various short in courses in water modeling. I'm not putting down his qualifications, I think he presents excellent qualifications, I just believe Ms. Wintersteen offers us qualifications which are unusual for us to find volunteering for the Board of Health. Is that the discussion, or the motion excuse me.

Commissioner Tinsley: I would like to make a motion because I think both of them would be excellent candidates applying for this position. So I'd like to make a motion (unknown) Ms. Wintersteen. (unknown)

Commissioner Murray: Second, Madam Chair I would ask since our health officers are available we allow Ms. Miles to comment.

Ms. Miles: Thank you. Madam Chair, members of the Commission. Two excellent applicants, I really don't know either of them but it's been a while since we've had this caliber of applicants wanting to come. Mr. Wallace, I that know when people call Carol she often encourages them to call me and get more information, he has called me several times to get information and board packets and things. He's done a lot of homework on this position. I don't know the other woman, I haven't heard from her. The only thought I had in the back of my head was that I'd like to somehow figure out to staff both of these people because they're really, seem very interested and we do next year, Janet Edgar's position which is sort of a consumer of health services in the County, no real technical requirements associated with consumer of health services, that position will be open. We've had somebody from the hospital for a couple of years now, but we really have an excellent working relationship with the hospital and we don't need to I

think necessarily ask for a hospital employee when her position is open next year. So maybe whoever you don't select this time we can encourage them to apply next year at that same time. Other than that, I think Mike points out really good qualifications for Ms. Wintersteen, Ken Wallace has called me and looked at information, and they're both really good so whatever you decide and then maybe I could encourage the other person to apply next year.

Chair Varone: When I read these applications last night, that's exactly what I felt. I've never met either one of these individuals, I really don't know them, but I thought what a shame we couldn't offer a board membership to each of them that's why I'm just taking a lead of who the Commissioners pick because I really couldn't choose.

Ms. Miles: I even looked into gender breakdown on the board right now and it's absolutely four and four right now so we tried to look at tie breakers and (unknown)

Commissioner Murray: Madam Chair, I have a classical solution to our dilemma. We have one additional open position that we're advertising for I believe for the Board of Health, do we not? I thought after she left there was still one position left.

Ms. Miles: No, that's this one here. But, that's what I was saying is there will be another position open next year for consumer of health services which certainly both of these people would qualify particularly Ms. Wintersteen with the children I think you would want to qualify for that position.

Commissioner Murray: Would you explain why this position requires an environmental specialist?

Ms. Miles: We, this was an added, we didn't have this until we re-did the interlocal agreement in 2000. Never have had and specific requests for somebody with technical or scientific background. What we felt with all of the environmental work that we do and the fact that Ward often has to do variances from the septic system regulations that it would be wonderful to have somebody with that kind of expertise on the board so John was the first person to fill that position and until that time I don't know what we actually had in the old agreement, but I think it was, it might have been two people, two consumers.

Chair Varone: and know we have one person with the technical background and one with scientific

Commissioner Murray: for a position that

Ms. Miles: We've always had the position, we've always had requirements for the position of superintendent of schools, city/county and east Helena, the others are members of the general public but we're looking for somebody with the scientific background so that the board has somebody besides staff that they can ask questions of or get some advice from.

Chair Varone: Thank you Joan. All those in favor of appointing Jennifer Wintersteen, signify by saying 'I'.

Commissioners: 'I'

Chair Varone: Motion carries.

Public Comments. None.

Adjourn.