

## **SUBDIVISION MEETING**

**October 16, 2003**

Chair Anita Varone called the meeting to order at 10:00 a.m.

Commissioner Tinsley was present. Commissioner Murray was absent attending a conference out of state, then on personal leave. Others attending all or a portion of the meeting included Ron Alles, Sharon Haugen, Cheryl Green, Nancy Everson, Janet Pallister, Kate Wilson, Ron Cullen, Pete McHugh, Roby \_\_\_\_\_, Ken Swain, Tammy Smith, Lt. George Cruickshank, and Carole Byrnes.

Pledge of Allegiance. Everyone recited the pledge.

Bid Opening. The Commissioners opened bids for the Parker Medical Clinic Remodel in Lincoln, Montana. Ron Cullen reported on the bids from:

- Beaver Creek Construction, Lincoln. Base bid \$59,475. Acknowledged receipt of 10% bid bond and Addendum #1.
- Pennington Construction, Lincoln, Base bid \$99,235. Acknowledged receipt of 10% bid bond and Addendum #1.
- Diamond Construction, Helena. Base bid \$83,600. Acknowledged receipt of 10% bid bond and Addendum #1.

The Commissioners will take the bids under advisement and return them to staff for review and recommendation to the BoCC at a later public meeting date.

Resolution Ordering Refunds of Fees/Assessments Paid of Scratch Gravel Fees.

Cheryl Green reported Roland D. Pratt has requested a refund of Scratch Gravel fees in the amount of \$27.03 due to a double assessment. Commissioner Tinsley moved to approve the resolution and authorize the chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Resolution Ordering Refunds of Fees/Assessments Paid of Scratch Gravel Fees.

Cheryl Green reported Deon T. Carpenter has requested a refund of Scratch Gravel fees in the amount of \$172.00 due to a double assessment. Commissioner Tinsley moved to approve the resolution and authorize the chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Resolution Ordering Refunds of Fees/Assessments Paid of Scratch Gravel Fees.

Cheryl Green reported Mark DeBoer has requested a refund of Scratch Gravel fees in the amount of \$172.00 due to a double assessment. Commissioner Tinsley moved to approve the resolution and authorize the chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Resolution Ordering Refunds of Fees/Assessments Paid of Scratch Gravel Fees.

Cheryl Green reported Shirley L. Gritton has requested a refund of Scratch Gravel fees in the amount of \$172.00 due to a double assessment. Commissioner Tinsley moved to

approve the resolution and authorize the chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Resolution Ordering Refunds of Fees/Assessments Paid of Scratch Gravel Fees.

Cheryl Green reported William and Bonnie Jacklin have requested a refund of Scratch Gravel fees in the amount of \$86.00 due to an erroneous assessment. Commissioner Tinsley moved to approve the resolution and authorize the chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Resolution Ordering Refunds of Fees/Assessments Paid of Scratch Gravel Fees.

Cheryl Green reported Carol Hollow has requested a refund of Scratch Gravel fees in the amount of \$172.00 due to an erroneous assessment. Commissioner Tinsley moved to approve the resolution and authorize the chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Final Plat Approval and Subdivision Improvements Agreement for the McHugh Minor Subdivision. Sharon Haugen reported the applicant, Pete McHugh, has completed all of the conditions of approval final plat except for construction of some improvements. The subdivision improvements agreement is in the amount of \$1,250. Staff recommends approval of both documents. Commissioner Tinsley moved to approve the improvements agreement and authorize the Commission to sign the final plat. Commissioner Varone seconded the motion and it carried 2-0.

Montana Department of Commerce, Community Development Block Grant Contract #MT-CDBG-PG03-08. Sharon Haugen reported on the standard Planning Grant from the Economic Development Program in the amount of \$10,000 and will complete the Comprehensive Economic Development Strategy and apply for federal designation as an Economic Development District for a tri-county region, which includes Lewis and Clark, Broadwater, and Meagher Counties. Lewis and Clark County has agreed to be the lead agency. Staff recommends approval. Commissioner Tinsley moved to approve the agreement and authorize the Commission to sign. Commissioner Varone seconded the motion and it carried 2-0.

Amended Intergovernmental Agreement for FY2003. Nancy Everson reported the amended agreement for FY2003 in the amount of \$23,550.45 is excess local county funds for the Cooney Home. Commissioner Tinsley moved to approve the agreement and authorize the Commission to sign the agreement and authorize the chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Resolution Declaring County Property Surplus Property. Ron Alles reported the resolution is to surplus a mower at the Forestvale Cemetery. The mower has a value of more than \$2,500 and will be traded-in for a newer model. Commissioner Tinsley moved to approve the resolution and authorize the Commission to sign. Commissioner Varone seconded the motion and it carried 2-0.

Resolution Declaring County Property Surplus Property. Ron Alles reported the resolution is to surplus electric tools from the Fairgrounds and a GPS unit from the GIS Department with individual values less than \$2,500. Commissioner Tinsley moved to approve the resolution and authorize the Commission to sign. Commissioner Varone seconded the motion and it carried 2-0.

Public Comments.

Ken Swain, 3955 Canal Drive. Mr. Swain was directed by the Attorney General's office to meet with the Commissioners to seek a resolution from the Sheriff's office on the improprieties he suffered on false allegations of harassment and misconduct leading to recent events. After discussion between Mr. Swain and the Commission, Mr. Swain was directed to leave his contact information with Mandi Ross (Commission Secretary), and staff will set up at a meeting between Mr. Swain, Sheila Cozzie, Ron Alles, law enforcement people, and Deputy County Attorney Paul Stahl.

Other business.

CDBG Pheasant Glen Closeout Reports. Sharon Haugen reported on two CDBG closeout reports for Pheasant Glen project. Rocky Mountain Development Council has complied with all of the requirements of the Department of Commerce. Staff recommends approval of the two reports. Staff also suggested if the Commission could write a letter to Gene Leuwer commending Karin Bratlien for excellent administration of the Pheasant Glen Project. Commissioner Tinsley moved to approve two closeout reports and the letter and authorize the Chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

There was no other business and the meeting adjourned at 9:40 a.m.

**THE FOLLOWING IS A VERBATIM TRANSCRIPT OF KEN SWAIN.**

Ken Swain, 3955 Canal Drive. I was directed by the Attorney General's office to meet with the Commissioners to seek a resolution from the Sheriff's office on the improprieties I suffered on false allegations of harassment and misconduct leading to recent events. It has been brought to my attention and I have gone through every route and every individual. I have been to the Sheriff's Department—very patiently waiting upon a reply, the Lewis and Clark County prosecutors will not speak to me. The police department will not speak to me. I have filed reports and statements and have waited months. There is some severe violations of my rights in which they have—they are trying to snowball, basically, under affect, and I believe that in the Constitution as well as our commitment to our rights within the city as well as within this country to protect citizens from unlawful harassment as well as the ability for law enforcement officials on their mistake which is very much documented which has proceeded to cause very much personal turmoil in my life. Guns being pointed at me to circumstances which is just is just uncontrollable for \_\_\_\_\_, but unprecedented in this country and I am only here as being informed by the attorney general's office I have never done these kinds of proceedings before. They have informed me, if not maybe misinformed and then I stand corrected but they have informed me that the only proper way to proceed with what I am to do is have the Commissioners help me look into these matters and I'm here to ask for a special meeting or an agenda be put together where I can be brought and if law enforcement would like to be there that is perfectly fine they have a right to their side of the story. It's a tough decision for an individual citizen to take on the law enforcement community, but subsequently now I live in fear for just normal procedures in life to go to the grocery store or to proceed with just picking my kids up from school.

Commissioner Varone. Sir, if I could interrupt if I may. I appreciate you coming here today and this is the venue where you could voice your concerns. The question to Ron (Alles) is he has asked for a meeting and I think it might be appropriate if we could find a time to set up a meeting with law enforcement, with Paul Stahl, who, with the Commission to talk about the issue and you've talked with the Attorney General's Office and maybe even...

Ron Alles. Madame Chair, I guess what remedy are you seeking? I don't quite understand the remedy that you are seeking from the Commission.

Ken Swain. Basically, I've been trying to file a complaint against an officer that has been hired by the Sheriff's Department and \_\_\_\_\_ is a recommendation from the Commission to see what they should proceed with this guy's behavior. For me to subsequently tell you what kind of punishment I want issued here is in appropriate.

Commissioner Varone. And if this has to do with a personnel issue, I'd rather not have it in a public hearing because I think because of the individual's rights that they have a right to that confidentiality, so rather than having a public meeting.

Commissioner Tinsley. Madame Chair I have a question. Have you filed a civil suit against the Sheriff's Department?

Ken Swain. That's why I'm here. I'm starting that procedure.

Commissioner Tinsley. Well, this isn't where you'd file a... you understand this---you would go find a private attorney and explain to him your problem or her and then they would go through the proper channels to do it. It appears to me that you would like to make a complaint with the county commission regarding the actions of one officer in the Sheriff's office.

Ken Swain. Yes, and the way it's been handled through the channels.

Commissioner Tinsley. I don't have a problem sitting in on a meeting and listening to that. Understand that the Sheriff is a separately elected official in this county. She has her own shop. For the most part, our jurisdiction falls within the fiduciary capacity. We handle...we approve her budget, we help them with their budgets, we are responsible for doing jail inspections, etc. making sure that the welfare of the inmates are being taken care of. But it seems to me it turns into a kind of gray area when we start talking about personnel issues and matters relating to a specific deputy.

Ron Alles. Madame Chair Commissioner. I'll talk to the attorney general too, but proper venue...I mean there isn't truly an action that I am aware of that the Commission can take against the Sheriff. The legal channels are just what Commissioner said—there is civil action or you file a complaint and it goes through that legal process but I don't know what tools the Commission has or would use in that situation.

Commissioner Varone. I guess my response to that is as a citizen, Mr. Swain came before us to just report that there is an issue in his mind and he is asking for a meeting to maybe reach a resolution and maybe reach a response and if it's not satisfactory, then you move on with whatever legal consideration you want to do with a private attorney and I think that as a county commission can set that meeting up and serve at least a place to happen.

Commissioner Tinsley. Excuse me, Madame Chair. I would much more prefer to do something like that in a private setting if we're going to be talking about a specific deputy and allegations. I don't think this is the time or place to hear it in a public forum.

Commissioner Varone. And I don't think that's what you're asking.

Commissioner Tinsley. And I don't say you are, I'm just saying I would prefer much rather to talk about it with the Sheriff present and somebody from the county attorney's office.

Commissioner Varone. If you would do that for Mr. Swain and make sure that Sheila (Cozzie) is there and also if you in the meantime talk to Sheila about whether or not as

a Commission can even be in the meeting because I know the last few years since I've been a Commissioner there are some instances and the legal statutes that don't allow us to be in the meeting but do allow for staff to be in the meeting and that's what we need to have Sheila check for us. Sheila is our personnel office by the way, Sheila Cozzie.

Commissioner Tinsley. Madame Chair, I'd like to say one more thing. Mr. Swain, it sounds to me like you had a beef with one particular officer and I understand that and I'm not going to sit and pass judgment on you, but I will say however that our Sheriff's Department are professional law enforcement officers and I know for a fact that Sheriff Liedle and Lt. Cruikshank that's sitting back here would never condone any type of beyond the law activity on any of the officers. And you have a specific beef and that's what we need to pursue and see if it is true and if it exists but for the record they don't condone that kind of activity, I know for a fact that they don't.

Ken Swain. Madame Chair, Commissioner Tinsley, I have high respect, my father was involved in the Department of Corrections for 30 years so I am not here as proceeding to say that the Sheriff's Department in any manner, shape or form, or the high—the bosses--- giving me an answer. They have not complied with writing me back, I, as a citizen, it's very scary even to approach the Commission and mention this, but once the truth and the facts are revealed to where the mishandling of my basic civil rights and the self-admittance by the deputy within his own sworn statements.

Commissioner Varone. Sir, I think I'm going to just stop this now.

Ken Swain. \_\_\_\_\_ that's just being informed, I'm here as just a citizen, I'm trying to do this in a proper manner and anything you guys can tell me what to do or which direction I'd gladly...

Commissioner Tinsley. Madame Chair, what I'd suggest is that you give your contact information with our secretary that's in the office across the hall so we can reach you when we decide when we can get a meeting together. Would that be all right?

Commissioner Varone. I think that will work just fine and her name is Mandi is she is right across the hall, and I think that would work well and in the meantime what we will do is have Ron and Sheila determine whether or not we can even be in the meeting. But to let you know that a meeting will be set up at a minimum with Sheila and Ron and law enforcement people, and Deputy County Attorney Paul Stahl. So something will be set up.

Ken Swain. Thank you very much.

The end.