

PUBLIC MEETING

June 22, 2004

Chairman Mike Murray called the meeting to order at 9:00 a.m.

Commissioner Tinsley and Commissioner Varone were also present. Others attending all or a portion of the meeting included Ron Alles, Sharon Haugen, K. Paul Stahl, Larry Marshall, Jeanne Duncan, Libbi Lovshin, Jaci Grenfell, Leo Dutton, Bill Ries, Frank Rives, Lindsay Morgan, Michael McHugh, Henry Van Gelder, Everett M. Stiger, Raymond Sams, Edgar S. Tingtep, Bob Berndt, Gary Blackman, Daniel Emert, Bob Johnson, Jack Noble, Becky Berger, Chuck Hanson, Kathleen M. Gibson, Sam and Sara Coleman, Joe and Lyla Amato, Marilyn Watson, Patrica Halvnson, Jack and Loo Giacomina, Brian Grant, Burt Gibson, Stanley Schmasow, Helen Schmasow, Beverly Stiger, Donna and Garry Graham, Robert Bauch, Dolores Bauch, Mary Siers, Brenda Blackman Gruel, Joyce Sterling Blackman, Dan Emmett Jr, Bob Holmon, Janet Pallister, Jeannie Duncan, Lorene Guettler, Mary Smith, Larry Marshall, Mike Hughes, Susan Hughes, and Carole Byrnes.

Pledge of Allegiance. Everyone recited the pledge.

Beartooth Road RID Rate Hearing.

Marni Bentley presented the resolution levying and assessing a tax upon all Benefited Property with in Rural Improvement District No. 91-3. A letter was sent to each property owner informing them of this hearing. She then received several calls in opposition of the rate increase in fees. They were advised to send letters of opposition. Staff recommends approval as requested by the Beartooth Road committee.

Submitted was a letter from Don M. Graham, Robert Mehloff, Mr. and Mrs. Noble, Jack Noble, Joe Amato, and another from Brian Grant as part of the record.

Eric Griffin, director of public works, stated that public works had started the process in November of 2002, and at that time invited everyone in the district the meeting in Wolf Creek and formed a road committee. Intended for all road users to be involved including Fish Wildlife and Parks, Forest Service, Bureau of Land Management, Forest Service, Lewis and Clark County, full time/part-time residents, day users and business owners. Only 12 steady members met. Felt that mutual respect was formed and that difficult issues were considered. Members met seven times. The two main objectives the committee formed were to stop deterioration of the road and create a plan to bring the road to a higher standard. Explored different options of funding. Committee met with top BLM officials, wrote letters to state directors and asked them to add a fee to campground to get them to contribute. The committee also pursued the idea of a toll road. MCA does not allow the county to pursue a road toll. The committee also wrote letters and submitted their report to the elected officials in Washington DC, congressmen and our senators. After 20 months of work, the committee's recommendation was to impose a flat fee of \$125 per geo code. The recommendation would allow for an additional 1800 tons of asphalt to road. Rural Improvement District will buy material, labor and equipment. Allow for existing hard surface to be chipped. This would also allow for a positive cash balance in Rural Improvement District to match additional funding or grants.

Kathleen Gibosn, 1842 Beartooth Rd, is against the proposed changes. Asked if there are any other county roads being taxed in this manner. She felt that the road was damaged by the work done by the campgrounds. She says that the county ignored any weight limit and is responsible for the damage caused by overweight trucks. She feels that the road should be taken care of by the county or those responsible for the damage to the road. Bureau of Land Management paved the road between the campground by the lake.

Bob Berndt, lot #6 Holter lake, is against the changes. He says that the campers and recreational people have damaged the road. He thinks that a fee to the campers and recreational people should be imposed to handle

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the cost.

Joe Amato, Lot 19 Holter Lake, is against the proposed changes. He feels that adding 2/10ths of a mile of a road that cannot afford will add to the problem.

Joyce Blackman, Read a letter. Considered high for those with many geo codes. Used mainly for recreational use. Feels that the Mill levy. Should be a toll road. Sterling Land will agree for \$125 for this year (total \$250)

Becky Berger, 144 Wedgewood, speaking on behalf of her father. She says that her family has owned property since 1959. The November 2000 meeting minutes do not reflect the comments that her father made. They do not agree with a flat fee. Expressing same concerns over the allocation of a flat fee for a cabin that is only accessed occasionally. They do agree with assessments with the road upgrade, but do not agree with a flat fee assessment. They feel that assessments should be three categories: seasonal, permanent residences and businesses. She feels that the residents on the committee failed to realize the impact of the permanent residents. She feels that this was a self-serving objective of one of the committee members. The report does not reflect the profit-oriented businesses and the permanent resident impacts on the road. Annual fee should reflect seasonal uses of the road.

Tom Fieres, 1506 Beartooth Road, remembers when it was a Montana Power, bulldozer road. Says that the road is a unique situation. Speed of the road speed limit on the road is 20mph and is causing washboard and potholes. Give tickets to keep the speed down. Feels that people would rather pay a toll than drive on a rough road. He wants this to be fair to residents. Keep pursuing other alternatives such as federal and state means, and reduce the speed and have police to patrol the road.

Lyle Coleman, owns a cabin on the back side of the lake. He is bothered by: the land owners have to pay for the recreational use, and does not believe that a charge should be in place to camp at the campground and that a fee should not be charged to use the road to get there. He would like to see a fee for the use of the road.

Bill Dunbaugh, 1816 Beartooth Road, is against the proposal because it is not fair to the land owners. He feels that Bureau of Land Management of not doing their part. He also mentioned that Helena Sand and Gravel was suppose to fill two holes and have backed out of taking care of it.

Bob Johnson, Beartooth Road. was on the committee to make the recommendation. Bureau of Land Management generated because of campgrounds. Bureau of Land Management does not help because of policy. Best solution is to have our senators and representatives put into appropriations that Bureau of Land Management contributes. The fairest was a geo code, looking for better ideas.

Dan Emmet, cabin owner accessible by boat, and is opposed to the proposal. He does not want to be charged extra for a road that he does not use. He feels that \$125 is excessive as a fee and causes him to pay about \$25 per visit to his cabin.

Jack Noble, property owner, is opposed to the proposal. He would pay approximately \$5 to make the trip to his property and back. Bureau of Land Management could add an additional fee to boat launch or campground fee. He would like to see a continuation of pursuit of federal legislation or regulations. Not an equitable approach to solving the problem, and would be permanent if implemented.

Dan Emmett, Jr., 2900 Cobban Butte MT 59701, is opposed to the proposed changes. He would like to keep his

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cabin in the family. Stated that his father is on a fixed income and could not afford an increase in fees and feels that the fees would make it difficult to keep the cabin in the family. Currently the taxes are almost a thousand dollars.

Brian Grant, 3536 Tizer Rd., owns a cabin in the Oxbow area. Agrees that maintenance of the road is a big issue. Noticed an advertisement in the paper concerning the upper Holter Lake Road, that the Federal Government is paying for repairs with County doing the work. He would like to see the same done on Beartooth Rd.

Bob Holman, 2630 St. Ann Butte MT, cabin owner on Holter Lake. He does not use the unpaved part of the road and does not want to pay for it. He thinks it's excessive, unfair and does not think that the residents should be stuck with the whole tab.

Bert Gibson, 1842 Beartooth Rd., owns a cabin on the lake. The taxes that he paid when he first moved there were \$250 and are now about \$2000. He feels that the whole process is illegal. He made a comment suggesting that he would take legal action against the county if the rate is imposed.

Chuck Hanson, 4322 N. Montana Ave, cabin owner at Oxbow area. He sees this problem that "if you build it they will come." Remembers when expensive trailers would not drive the road because they could no get to the lake on that road. When the Bureau of Land Management campgrounds were new the area didn't get a lot of traffic. Over the last 10-15years combined with the upgrade of the campgrounds there has been an increase in traffic. The chip seal surface is not easy to fix. Need to build up the surface up with asphalt. The assessment of \$125 does not seem too high. Public Works has a good 10year plan to fix the road. If they want to keep the hard surface it needs to be asphalt because you can't patch and fix chip-seal the same way, or they need to go back to gravel.

Bill Dunbaugh, 1816 Beartooth Rd., found the letter from Helena Sand and Gravel dated January 27, 2003 from Wayne Effertz, stating that in addition Helena Sand and Gravel will help the County Road Department repair the dugouts between mile markers 1 and 2 near the top.

Commissioner Varone speaking as a citizen. Her family also has a cabin reachable only by water. She states that Public Works put together a study on the road. To fix the road correctly to road standards the cost would be 1 million per mile, not counting the 4million dollars to conduct an impact study. She contacted Bureau of Land Management and they have done everything they can do. National statute does not allow them to build roads except in their campground area. The fix has to be a national fix through contract with persons in Washington DC, and due process. A \$125 Rural Improvement District is not the most expensive, it's about in the middle.

Sonny Steiger, 1555 Beartooth Rd, is a member of the committee. Thinks their Rural Improvement District constitutes 10% of the people using the road and 90% of the travelers use the road for free. If the county could give a portion of the road to the Bureau of Land Management, they could fix it.

Kathleen Gibson says that Bureau of Land Management did surface the road from long gulch to the campground.

Commissioner Murray stated that the reason they paved the small portion of road was to meet their outlying camping spots, and that the county has tried to work something like this into the plan.

Bob Burnett, Lot 6., wouldn't mind letting Beartooth Rd. go back to gravel road. He does not want to pay the

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fee and does not want to consider adding on to the road when they can not fix the road they do have. He feels that the property owners should not be responsible for care and condition of visitors vehicles.

Dan Emmett, Butte MT, asked if a portion of motor vehicle taxes went to county roads. Ron Alles confirmed his assumption was correct.

Hank VanGelder, own prop other side of the lake, was for road improvement in the early 90's when the commission addressed it. He was also under the impression that the whole road would be done and feels that the road is not safe, and does not believe that it will be fixed. He is against the proposed changes.

Jack Giacoma, Indian Trail Marine, has worked very hard on the road plan and thinks the alternatives are not very good. Suggested in the committee that the road be extended. He wants to see the owners on the other side of the lake receive some benefit of their taxes. He's also looking for dust control with improvements. Work on this some more to maintain the road with another option to finish the road.

Commissioner Murray closed the Public Hearing. Commissioner Tinsley moved to render a final decision June 24, 2004 to consider public testimony as well as the recommendation from committee. Commissioner Varone seconded the motion.

Commissioner Varone would like to continue commitment to pursue the possibility of a campground fee at a national level and other alternatives.

Commissioner Murray expressed a thank you for the civility at today's hearing. Ask delegation to support Board of County Commissioners letter of support at a federal level by stopping by our representatives office and expressing their concerns to their staff.

The motion carried unanimously.

Recess 10 minutes. Commissioner Varone was excused for the remainder of the day.

Bid Award. (Darrel Folkvord) The Commissioners will consider awarding the bid on the sale of the county landfill compactor. City coun sanitation 107

Janet Pallister reported that when Public Works opened the bid for the sale of the county landfill compactor they received two bids. The first was from the City County sanitation for \$110,000 and one from Marcell Equipment Limited for \$107,270. When they purchased their new one they had the option of redeeming the old one for \$100,000, but felt that they would achieve more for it on the market. Public Works recommendation is to sell the compactor to the City County Sanitation for the amount of \$110,000. Commissioner Tinsley moved to approve the award to City County Sanitation in the amount of \$110,000. Commissioner Murray seconded and the motion passed 2-0.

Contract with Entranco, Inc. for Engineering Services. (Janet Pallister) The Commissioners will consider the contract in the amount of \$7,500 for the Triple Barrel Culvert Replacement Project on Stemple Pass Road.

Janet Pallister presented the contract stating that the total cost would be \$75,000, divided between Trout Unlimited, Public Works and Fish Wildlife and Parks. Staff recommends approval \$7,500 contract. Commissioner Tinsley moved to approve and authorize the chair to sign. Commissioner Murray seconded the motion and it carried 2-0.

Cooperative Agreement with the Big Blackfoot Chapter of Trout Unlimited.

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Janet Palister reported on the Big Blackfoot Chapter cooperative agreement for \$25,000. Staff recommends approval. Commissioner Tinsley moved to approve and authorize the chair to sign. Commissioner Murray seconded the motion and it carried 2-0.

Amendment No. 3 to Contract with Entranco, Inc. for Engineering Services at the County Landfill. Janet Pallister reported on amendment #2 in the contract with Entranco engineering. This amendment would change the rates of the persons working on the project but would not affect engineering fees, just operation and maintenance. Staff recommends approval. Commissioner Tinsley moved to approve and authorize the chair to sign. Commissioner Murray seconded the motion and it carried 2-0.

Amendment No. 3 to Contract with Johnson Controls. (Janet Pallister) The Commissioners will consider amending the contract for maintenance of the heating and air conditioning systems at the Courthouse/LEC to increase the annual service fee to \$8,132. Scope is not changing. The cost is increasing by 3%. Staff recommended approval. Commissioner Tinsley moved to approve and authorize the chair to sign. Commissioner Murray seconded the motion and it carried 2-0.

Health Department Renewal Contract. (Libbi Lovshin) The Commissioners will consider the contract with DPHHS to provide case management services and direct care support to AIDS individuals and families. The contract provides \$2,000 for administrative expense and \$22,000 for direct care through March 2005. Staff recommended approval.

Libbi Lovshin reported on the Health Department Renewal Contract, providing direct services for individuals and families that are HIV positive and also provide case management assistance. The contract is a 12month contract. Staff recommended approval. Commissioner Tinsley moved to approve and authorize the chair to sign. Commissioner Murray seconded the motion and it carried 2-0.

Cooperative Agreement with Bureau of Land Management. (Undersheriff Leo Dutton/Jaci Grenfell) Undersheriff Leo Dutton presented. This is a cooperative agreement with the bureau of Land Management to allow living quarters at Holter Lake area for patrolling public lands such as campgrounds. There is no cost associated with this contract. The contract has been reviewed by the County Attorney's office. Staff recommended approval. Commissioner Tinsley moved to approve and authorize the chair to sign. Commissioner Murray seconded the motion and it carried 2-0.

Subdivision Improvements Agreement, Contingency Agreement, and Final Plat Approval for Skyview Major Subdivision Phase 4B. (Applicant, Larry Marshall) (Planner, Michael McHugh)

Michael McHugh presented the Final Plat. The Commissioners will consider the agreements and final plat. The applicant was required to complete the subdivision improvements agreement prior to June 20, 2004 and to adhere to the contingency clause. The contingency contract has been developed by the County Attorney's office. Because there's uncertainty on the degree of work that needs to be done on Prairie Rd on of the conditions of approval stated that the applicant was required to pave Prairie Road 50 feet west of O'Reilly Drive. The planning department could not get a detailed bid estimate therefore, the applicant agreed to the contingency. Contingency amount is an estimate of \$12,327.60. The total amount of the improvements agreement is \$118,139.50. The county does have an irrevocable letter of credit. Commissioner Tinsley moved to approve the agreements and signature on final plat. Commissioner Murray seconded the motion and it carried 2-0.

Proposed Subdivision, Summary Review to be Known as Guettler Minor.

Mrs. Guettler was present and stated that she had received a copy of the staff report. Jeanne Duncan was

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present representing applicant. There are no zoning or covenants on the existing property. Historically the property has been used for agriculture. An irrigation ditch runs through the property. The applicant is required to provide on site waste water systems. Future owners would be required to obtain approval from the city county Health department. An easement is necessary for access properties. Staff recommends there be no access restriction to the northern boundary, approaches be aligned with existing roadways. The property is located in the West Valley Fire District. Staff did not receive any comment from fire department prior to the preparation of the staff report. A \$500 fire protection plan was added to the conditions of approval. The Water Quality Protection District nitrate concentrations are extremely variable in this area, although specific studies have not been done on this site. There is a moderate noxious weed infestation, consisting mainly of White Top(Hoary Cress). There are no floodplains or steep slopes on the property. One of the conditions of approval includes fencing off the irrigation canal for the safety of children. Applicant expressed concern due to cost involved with fencing the canal. Several earthquake faults are located within a mile and a half both north and west to the subject property. Staff recommends that any structures built within the building codes for seismic zone 3. Staff recommends approval, subject to 12 conditions are outlined in the staff report.

Mrs. Guettler corrected her address, 7390 N. Montana Ave.

Jeanne Duncan, 309 S. California, is a Real Estate Broker with Big Sky Brokers. Feels condition 7 is overkill to fence the irrigation canal. They are adding only one additional residence in the entire 50 acre parcel and having to fence the entire canal for one additional parcel is overkill.

Hearing no other comments, the public hearing is closed.

Commissioner Tinsley asked if the fence can be installed if future development occurs.

Commissioner Tinsley moved to approve the proposal and authorize the chair to sign. Commissioner Tinsley moved to amend condition to remove item #7. Commissioner Murray seconded the motion. In the future if the property is subdivided with more home-sites the applicant be required to install a fence.

Commissioner Tinsley then motioned to amend the previous motion to include Condition 10.c. Commissioner Murray seconded the motion.

Commissioner Tinsley moved to amend Condition 9.e. after; and approaches should be aligned with existing roads on Applegate Drive. Commissioner Murray seconded the motion. The motion carried 2-0.

Proposed Minor Subdivision, Preliminary Plat to be Known as Amended Plat of Lot 14C, Tenneson Minor. (Applicant, Jack Lowry) (Planner, Lindsay Morgan) The Commissioners will consider creating 4 lots each for one single-family dwelling. The subject property is located in the SE1/4 of Section 13, T10N, R3W; immediately located east of Dusty Maiden Drive, north of the intersection of Dusty Maiden Drive and Rocky Road.

Lindsay Morgan presented the subdivision located on Dusty Maiden Drive, just north of Rocky Road. The existing plot of land is approximately 5.154 acres. The site is relatively flat and currently undeveloped. The applicant is proposing four lots each for one single-family dwelling, each with individual wells and individual waste water treatment system and utilities. Access is proposed off of Dusty Maiden Dr. and Jungers Court. The property does not lie in a zoning district or covenants. The applicant has not proposed any further restrictions or covenants. Property owners will be subject to an Rural Improvement District for road maintenance or improvement to Dusty Maiden Dr. Jungers Court does not meet county standards, Peccia #3 and must be upgraded to standards before final plat approval. This process will also require that Jungers

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Court be deemed a public access and utility easement. No parkland dedication will be required. Applicant will be required to pay a \$500 fee for fire protection from East Helena Valley Fire District. Staff recommends approval subject to 14 conditions.

Bill Ries, 1650 Green Meadow Dr, spoke on behalf of Jack Lowry, the applicant. The applicant agrees with the conditions of approval. Concerning the alleged private covenants, the title company will do a research of any covenants.

Mary Smith, owner of property at 3335 Hutton Road, had some concerns. Her first concern was the possibility of water tainting. She wanted to know if septic permits have been issued?

Sharon Haugen responded to the question stating that she didn't know of a restriction of such being placed on the property. In Department of Environmental Quality as a matter of practice does not specify the number of permits because of other septic systems in the area. They examine each parcel of property independently to ascertain whether it's appropriate to put a septic on that piece of property. She also clarified that after the county permits an additional well the applicant must go through Department of Environmental Quality approval and Environmental Health approval before obtaining a permit. At that time they will determine the plausibility additional septic systems. The County regards the matter as Subdivision Plating act as a matter of law.

Hearing no other comments the public hearing is closed. Commissioner Tinsley moved to approve the proposal subject to 14 conditions. Commissioner Murray seconded the motion and it carried 2-0.

Request for a One-Year Extension of Preliminary Plat Approval for Retz Estates, Lot A-4 Minor Subdivision.

Frank Rives addressed the issue concerning extension of Preliminary Plat Approval. He stated that this is the third request for extension. The applicant has shown due diligence and staff recommends approval. They do have an approach permit and are ready to give the fire department their development fee. The road will also be bladed and certified by an engineer. They are working on their weed plan and working with Department of Environmental Quality. Commissioner Tinsley moved to approve one-year extension to June 12, 2005 and authorize the chair to sign. Commissioner Murray seconded the motion and it carried 2-0.

Noxious Weed Control Grant Agreement. (Larry Hoffman)

Ron Alles spoke on the Noxious weed control grant agreement. The purpose of this grant is to provide for noxious weed control at Canyon Ferry. The agreement is an extension modification contributing an extra \$11,000 bringing the total project to \$31,000. Staff recommends the approval of the agreement. Commissioner Tinsley moved to approve and authorize the chair to sign. Commissioner Murray seconded the motion and it carried 2-0.

Independent Contractor Contracts for Weed Control for the 2004 Season.

- a. Helena Weed Control, LLC. For Herbicide Management:
 - i. Arrastra Creek, Blackfoot Herrin, and Mine Section \$3,920
 - ii. Scratchgravel area \$1,960, Ward Ranch \$5,880
 - iii. Riparian areas w/in Bucksnot Project area \$6,578, plus chemical costs
 - iv. Roads in Bucksnot Project area. Roadway \$2,600, plus chemical costs. Fireline \$3,100, plus chemical costs
 - v. Work w/ BLM to use herbicides. \$11,760 for labor and chemicals

Ron Alles reported on the above contracts with Helena Weed Control LLC. Commissioner Tinsley moved to

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approve one-year extension to June 12, 2005 and authorize the chair to sign. Commissioner Murray seconded the motion and it carried 2-0.

Ron Alles reported on the contract with Ernst Weed Control in the Prickly Pear Area for \$1470 and the Tri-Gulch area for \$2450. Staff recommends approval.

Commissioner Tinsley moved to approve one year extension to June 12, 2005 and authorize the chair to sign. Commissioner Murray seconded the motion and it carried 2-0.

Resolution Ordering a Refund of Taxes/Fees/Assessments Paid for Applegate RID Property Owners. The Commissioners will consider the resolution to refund \$105 for the 2000 and 2001 tax years to Scott Preston and Shelly Baisley due to an erroneous assessment. Ron Alles reported on the refund. The refund is to Scott Preston and Shelly Baisley with a total of \$105.09 as part of a review of the Applegate Rural Improvement District. Staff recommends approval.

Commissioner Tinsley moved to approve and authorize the chair to sign. Commissioner Murray seconded the motion and it carried 2-0.

Public Comments. None.

Commissioner Varone thanked staff for keeping her updated and working hard while she was absent.

Adjourn.

Commissioner Murray adjourned the meeting at 11:10 A.M.

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