

SUBDIVISION MEETING
July 22, 2004

Commissioner Murray called the meeting to order at 9:00 a.m. Commissioner Tinsley was present. Commissioner Varone was absent on medical leave. Others attending all or part of the meeting included Sally Ann Mulcahy, Judy Birch, Pat McKelvey, Larry Akers, Frank Gruber, Paul Spengler, Dave Stahly, Carol Hanel, Janet Pallister, Sue Daly, Cheryl Liedle, Cheryl Green, Jason Grimmis, and Tammy Smith.

Pledge of Allegiance. Everyone recited the pledge

Pre-Disaster Mitigation Plan. Paul Spengler reported the Lewis and Clark County Pre-Disaster Mitigation Plan identifies three major hazards in the county that have caused the most property damage, injuries and fatalities, wildfire, flood, and earthquake. The plan contains projects that are proposed to mitigate against these hazards. FEMA requires every county and incorporated city in the United States to have a pre-disaster mitigation plan to ensure receipt of federal assistance following the declaration of a presidential disaster. It also allows the county to compete with other counties in the state and also in the country for pre-disaster mitigation projects which would require 25% of local funding match some of which can be soft match and 75% from FEMA.

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

Bid Award. Carol Hanel reported on the bid award for the 2004 RID Projects. The projects will consist of chip sealing, crack sealing, full depth patch repair, skin patch repairs and pot hole repairs. There are a total of 14 RID's that will be receiving road maintenance projects and are all hard surface roads. Additional maintenance in the Eastgate RID will include concrete curb and gutter and concrete valley gutter work to correct the flow of the water on Gradestake and Boundary. Staff and Stahly Engineering recommend awarding the low bid Helena Sand and Gravel in the amount of \$176,779.36 and authorize the chair to sign all related documents.

Commissioner Tinsley moved to approve the recommendation to award the project to Helena Sand and Gravel and authorize the chair to sign all related documents.

Resolutions Ordering a Refund of Taxes/Fees/Assessments Paid. DOR representative, Rocky Haralson reported the State Tax Appeal Board has approved the refunds of (1) Kathleen Rau \$7.89, (2) Dona Perkins \$12.45, and (3) Jimmy McCabe \$26.62. Adjustments to the property valuations have been made by the State Tax Appeal Board which result in an adjustment in the tax bills.

Commissioner Tinsley moved to approve the refunds 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. Cheryl Green reported Patricia Fox requests a refund in the amount of \$86.00. Ms. Fox paid the assessment for scratch gravel fees on her property but she received no permit. Staff recommends approval of the refund. Commissioner Tinsley moved to approve the

refund 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. Rocky Haralson reported Carmela M. Linguista requests a refund in the amount of \$783.31 due to a data entry error on the parcel which generated an erroneous assessment. Staff recommends approval of the refund. Commissioner Tinsley moved to approve the refund and authorize the chair to sign. Commissioner Murray seconded the motion and it carried 2-0.

Motorola Change Order No. 001. The Commissioners will consider a change in the payment schedule due to the amount of extra design work not anticipated in the original contract. At the request of the Sheriff this has been postponed to a future meeting.

DUI Task Force Contracts for Service – FY05. Deputy Jason Grimmis reported the proposed 2005 budget is for DUI enforcement in the Lewis and Clark County and can also be used for purchasing equipment related to DUI offenses or DUI related activity. Currently contracts are presented for Lewis and Clark County Sheriff's Office \$4,000, Helena Police Department \$4,000, and the Montana Highway Patrol \$4,000. The paperwork has not yet been completed for East Helena \$1500 and the County Attorneys office \$5000. Commissioner Tinsley moved to approve the refund and authorize the chair to sign. Commissioner Murray seconded the motion and it carried 2-0.

Request to Schedule Public Hearing to Revoke Agricultural Covenant. Ron Alles reported the applicant, Greg Hampton, has requested a public hearing to remove a certain property that contains agriculture covenants. Commissioner Tinsley moved to approve the request to schedule a public hearing to hear the matter regarding revocation of an agricultural covenant and allow staff to set the date and authorize the chair to sign. Commissioner Murray seconded the motion and it carried 2-0.

Final Plat Approval for the Wes Johnson Tract 8, Minor Subdivision. (Michael McHugh) The Commissioners will consider the final plat.

Chair Murray: Mr. McHugh you have a final plat approval for Wes Johnson, Tract 8 Minor subdivision?

Michael McHugh: Commissioners this a three lot minor subdivision that was given preliminary approval on December 30th of last year with 12 conditions. All those conditions have been met, all taxes have been paid.

Chair Murray: Questions of Mr. McHugh?

Commissioner Tinsley: None Mr. Chair.

Chair Murray: Are you prepared to sign the plat by consensus?

Commissioner Tinsley: Yes.

Chair Murray: So by consensus the commission has agreed to sign the plat for Wes

Johnson Tract 8 Minor Subdivision.

Resolution to Establish a Policy on Bankruptcy Procedures for the Treasurer/Clerk & Recorder's Office. (Ron Alles/Paulette DeHart) The Commissioners will consider the resolution.

Ron Alles: Mr. Chairman, Commissioner Tinsley the purpose of this resolution is to establish a procedure by Lewis & Clark County to facilitate tax lien sales on properties that have been in bankruptcy. As you may know and many of the public may know if a person is delinquent on their properties, other people can come in and pay those taxes in effect what they do is take assignment on that property and it is up to the owner of that property than to pay back the person who has taken assignment. In the case of bankruptcies those parcels, the County cannot take assignment on those properties. We cannot accept the money for bankruptcy purposes and allow another individual to pay for that. There may be several parties interested in this, in the previous cases you know somebody can come in it's a first come first serve basis for someone to take assignment. In bankruptcy proceeding there may be several people interested in it and we're just trying to make it a fair way for all of the public to have the opportunity to take assignment on a particular piece of property. That's the purpose of this resolution, staff does recommend approval of it.

Chair Murray: Questions of Mr. Alles?

Commissioner Tinsley: None.

Chair Murray: Is there a motion?

Commissioner Tinsley: Mr. Chairman I move approval of the resolution to Establish the Policy on Bankruptcy Procedures for the Treasurer Clerk & Records Office and authorize the chair to sign.

Chair Murray: Second. All in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye Motion carries.

Resolution Declaring County Property Surplus Property. (Ron Alles) The Commissioners will consider the resolution to surplus various items of county property which individually have a value less than \$2,500.

Ron Alles: Mr. Chairman, Commissioner. This is the formal process by which Lewis & Clark County surpluses property that is on our asset rolls. It is property that is either no longer needed and will either be depending on the type of equipment either disposed of or surplused and sold at a later date. You have seven items in front of you, anything from a Harrow, I might point out the Harrow we do have interest in that from another County it doesn't meet our needs at the fairgrounds but it may meet some other needs and there are arrangements with another county at least on a price for that and than there's some other miscellaneous equipment in there. As well you'll note there is also the horse racing starting gate, this doesn't mean necessarily that we're going to sell it or

dispose of it but in the event that there is interest in it, we can take action on that. Staff recommends approval of the resolution.

Chair Murray: Questions of Mr. Alles?

Commissioner Tinsley: None. Mr. Chairman I move approval of the resolution declaring certain county property surplus property and authorize the chair to sign.

Chair Murray: Second. All in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries.

Resolution to Create Rural Improvement District No. 2004-4 for the Broadwater Estates Subdivision. (Marni Bentley) The Commissioners will consider the resolution.

Marni Bentley: Commissioners. My name is Marni Bentley with the County Planning Department. On June 29th of this year the board passed a resolution of intent to create the Broadwater Estates Rural Maintenance District. Letters were sent to all property owners within the district, proposed district and legal ads were published in the IR. The district is only for the maintenance of the roads in the Broadwater Estates Subdivision, a developer will be installing the hard surface roads as a condition of their subdivision approval. As of July 20th which was the protest deadline one letter of protest had been received and that was attached to your memo. The landowner did indicate that they were not or did not want to be included in the Broadwater Estates Maintenance District and during the hearings on the Broadwater Subdivision it was his understanding that he would not be included in the maintenance district. State statutes do require that all benefiting properties be included in an RID and in this case those lots, lot owners will have to use those roads to access there subdivision so they would be considered a benefiting property. I did have another inquiry from another property owner about Old Broadwater Lane being built by the Federal Government and that they have a responsibility to maintain it but I have not been able to get a follow up answer to that or I haven't received word that they will take any type of responsibility. A draft resolution creating the Broadwater Estates Rural Maintenance District is attached to your memo and it does have the costs outlined for maintenance. Staff recommends approval of the resolution to create the Broadwater Estates Rural Maintenance District. In this case we won't have a rate hearing until the Broadwater Estates Subdivision is final platted and Department of Revenue has assigned Geo codes so we're going to create the district but we won't assess anything for it. I can answer any questions you may have.

Chair Murray: Questions of Ms. Bentley?

Commissioner Tinsley: Mr. Chairman, Ms. Bentley. Although I feel it's very unlikely in the event that we do hear some positive news regarding the Federal Governments responsibility for that road, assuming we pass this and continue to go forward, does that in any way negate or hinder our ability to work with them if in fact they do have responsibility, I don't want to get anybody's hopes up, I bet they probably don't

Marni Bentley: I don't think that it will hinder anything, what we could do if we do get a contribution from them of some sort we may be able to reduce the rates for maintenance of the rest of the roads in the subdivision.

Chair Murray: Further questions?

Commissioner Tinsley: None.

Chair Murray: Thank you Ms. Bentley. This is a public hearing, anyone wishing to speak on this proposed Rural Maintenance District now is your opportunity to speak in favor of and opposition to or speak in general. With a second. With the third and final time. This closes the public hearing. Commissioner I want to note for the record that we have received a letter of protest from Orlan T. Strom who's representing us in Iraq I believe, he is out of the Country on military service. Is there a motion?

Commissioner Tinsley: Mr. Chairman I move approval of the resolution to create the Rural Improvement District Number 2004-4 for the Broadwater Estates Subdivision and authorize chair to sign.

Chair Murray: Second. All in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries.

Resolution to Create Rural Improvement District No. 2004-5 for the Cave Gulch Area (Marni Bentley) The Commissioners will consider the resolution.

Marni Bentley: Commissioners, again on June 24th you passed a resolution of intent to create the Cave Gulch RID. Letters were sent to all land owners, legal ads published in the Independent Record. I did receive two letters of protest and those are attached to your memo. The protest from Mark Raymond who owns the property at the very south end of the district on the south side of Canyon Ferry Road indicates that no work was done on his property, but it was staff's determination that he did benefit because he wouldn't have the water running through his property after the Cave Gulch improvements were made. The other protest from the Wixsten's they do own a portion of the BLM lot and that lot is included within the RID and there property should be assessed. The one that they indicated on the map was not the lot that's being assessed. I didn't receive any additional protest letters. There was one other property owner that contacted me and that was the Vern and Terry Raymond property. They have four geo-codes for basically two properties, two of the lot sizes were small and useless as lots so they did request that the Department of Revenue combine those geo codes into two and those are noted on your memo. So the assessments for everyone else were changed a little bit based on the taking out of those two geo codes. I have attached a draft resolution to your memo to create the Cave Gulch RID and staff does recommend approval of that.

Chair Murray: Questions of Mrs. Bentley?

Commissioner Tinsley: None.

Chair Murray: This is a public hearing, anyone wishing to speak in favor of and opposition to or speak in general, now is your opportunity. For the second. For the third and final time. Commissioner Tinsley.

Commissioner Tinsley: Mr. Chairman I make a motion that we approve the resolution for to create the Rural Improvement District number 2004-5 for the Cave Gulch Area and authorize the chair to sign.

Chair Murray: Second. All in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye Motion carries.

Chair Murray: Commissioner, we're going to take a five-minute break.

Chair Murray: Our recess is complete, Commissioner Tinsley with your permission I'd like to jump to item #16 the Montana Arts Council Cultural Trust Grant Agreement.

Request for Modification of Condition of Approval 10.d for Lot 9-1 of the Lone Prairie, Major Subdivision. (Planner/Michael McHugh) The Commissioners will consider the request to amend condition 10.d and schedule a public hearing.

Michael McHugh: Commissioners back in August of 1999 the Board of County Commissioners granted approval for a 25 lot major subdivision that's located west of Pioneer Park Road. As part of those conditions, Lot or condition number 10.d required that a building envelope be placed on lots 9-1 and 9-5 to prevent construction of the lowest parts of the lots. We have a request, there seems to have been development on lot 9-1 that's encroached upon the building envelope and the future purchaser of that property is requesting to have that condition modified or have that building envelope modified. Attached to the memo is a letter from the applicant, the original conditions of approval and also the original site plan. If the commission chooses they will need to set a public hearing, we will need to provide notice to all the potentially affected parties in the area and hold a public hearing at that time.

Chair Murray: Questions of Mr. McHugh?

Commissioner Tinsley: Mr. McHugh. I'm fully prepared to grant or propose a resolution having a public hearing on this but I guess the thing I want to know is what good does it do us perhaps this is a rhetorical question, to put conditions of approval on that can be ignored and then we come back and just pretend it didn't happen and I understand this is a different person, this is not the person the conditions were placed on

Michael McHugh: I wasn't involved in the review of the initial subdivision. I did go out and look at the site yesterday. There appears that on this particular lot that maybe this area had been used as a barrow area for other materials. In general the site is very very flat and I don't know what the rationale was to place this condition on there. I've read the staff report, there's not a lot of information in the staff report regarding to it. It's not included in the overall drainage plan for the subdivision. I haven't completed any analysis at this time, but it was a condition that was placed on it at that time again I don't

know why

Commissioner Tinsley: I guess my fear is, Chair Murray Mr. McHugh, my fear is I mean there may be very valid reasons for going forward with this an authorizing the modification. I don't want that to be seen by folks in the industry that as I guess what I'm saying here publicly is let them know that we put these conditions of approval on for a reason and we don't just modify every condition of approval that comes down the pike we need to take very hard strong looks at it and it sounds to me like there might be some mitigating circumstances here, I don't know. But this does not need to become a common practice. There's a reason why we put these on and I'm not lecturing you I know that you are one of the ones that put them on for us and recommend them for us. But we have reasons for doing that and I think we need to have very very solid reasons why we want to modify if we decide to in the future but Mr. Chairman I make a motion, I guess you need a motion to request or schedule a public hearing.

Michael McHugh: That's correct.

Commissioner Tinsley: Mr. Chairman I make a motion that we schedule a public hearing to listen to the request for the modification condition of approval number 10.d for lot 9-1 of the Lone Prairie Major Subdivision.

Chair Murray: Second. All in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries.

Final Plat Application for Elk Park, Lot 72 Minor Subdivision. (Michael McHugh, Planner) The Commissioners will consider the Final Plat Application

Michael McHugh: Commissioners this is a subdivision that was granted approval back in November of last year, it had eight conditions attached to the subdivision, all those conditions have been met and taxes have been paid.

Chair Murray: By consensus?

Commissioner Tinsley: Fine with me.

Chair Murray: Fine, we've agreed to sign the plat.

Signature of Network Access Agreement between City of East Helena and Lewis & Clark County. (Ron Alles) The Commissioners will consider signing the Network Access Agreement between the City of East Helena and Lewis & Clark County.

Ron Alles: Mr. Chairman, Commissioners. As you recall, I believe it was last year perhaps two years ago the City County IT Department has incorporated other entities within our system. East Helena Police Department is one of them and this is just the agreement between us and the City of East Helena for our network services. Staff does recommend approval.

Chair Murray: Questions of staff?

Commissioner Tinsley: None

Chair Murray: Is there a motion?

Commissioner Tinsley: Mr. Chairman I move a resolution of the Network Access Agreement between the City of East Helena and Lewis & Clark County and authorize chair to sign.

Chair Murray: Second. All in favor of the motion signify by saying Aye.

Chair Murray: Aye Motion carries.

Montana Arts Council Cultural Trust Grant Agreement. (Ron Alles) The Commissioners will consider signing the grant agreement as local government sponsor and letter of support for Dance Montana, Inc. dba Artisan Dance.

Sally Ann Mulcahy: Good morning Mr. Chairman, Commissioner. My name is Sally Ann Mulcahy and I'm here requesting a governing sponsorship for a Montana Cultural Trust Grant application for Artisan Dance.

Chair Murray: Questions?

Commissioner Tinsley: None. As a aspiring ballet dancer in my daughters ballet troop I whole heartedly agree to and I'm glad to propose a resolution and authorize the chair to sign that we pass this resolution for the Trust Grant Agreement, that's my motion.

Chair Murray: Second. All in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries.

Commissioner Tinsley: Mr. Chairman we did receive yesterday a letter and a grant application request from the Lincoln Community. I indicated to them, it has to be in by the end of the month is that right?

Sally Ann Mulcahy: This ones due August 1st.

Commissioner Tinsley: Yeah, so is there's. I indicated that it was too late for this mornings meeting but it would be put on the agenda and if there were no meeting next week I couldn't remember we would sign it and pass it on pro tunc if that's okay with you.

Chair Murray: That's fine

Commissioner Tinsley: Alright

Chair Murray: And I am the only Commissioner in next week so I'll go ahead and sign it

today. Thanks for applying through us.

Resolution relating to the Refunding of the County's \$3,620,000 Solid Waste Facility Revenue Bonds, Series 1994 and the County's \$800,000 Solid Waste Facility Revenue Bond Series 2000 and Authorizing Payment of a Redemption Premium for the Series 1994 Bonds and Providing Notice of Redemption to Holders of the Series 1994 and Series 2000 Bonds. The Commissioners will consider the resolution.

Ron Alles: Mr. Chairman, Commissioners. This is one of the final steps and an action that the Commissions already approved of doing. In essence, what we have done is refinanced bonds through the SRF loan program and we do need this resolution passed as a formality to place in the documentation for this refunding.

Chair Murray: Questions of Mr. Alles?

Commissioner Tinsley: None

Chair Murray: Is there a motion?

Commissioner Tinsley: Mr. Chairman I move the resolution that relating to the refunding of the Counties Solid Waste Facility Revenue Bonds and authorize the chair to sign.

Chair Murray: Second. All in favor of the motion signify by saying Aye.

Commissioner Tinsley: Aye

Chair Murray: Aye Motion carries.

Request for Additional Budget Authority for Justice Court for the Purchase of a Copier for Approximately \$4,000. (Nancy Everson) The Commissioners will consider the request.

Ron Alles: Mr. Chairman, Commissioners. Although the County has just recently passed it's 2005 budget, the Justice Court copier has since failed. The Justice Court does have sufficient money saved up in it's capital improvement plan to purchase a new copier though it wasn't budgeted for specifically the cash reserves were there for Justice Court to purchase this copier. Staff does recommend approval.

Chair Murray: Questions of Mr. Alles.

Commissioner Tinsley: None. Mr. Chairman I move approval of the request for additional budget authority for Justice Court to purchase the copier for approximately \$4000 and authorize chair to sign.

Chair Murray: Second. All in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries. It's unfortunate that County departments don't plan

ahead and forecast this as part of the budget process.

Public Comments on Items Not Noted on the Agenda.

Chair Murray: If there's anyone with an item that they'd like to bring before us now is your opportunity and with no one coming forward, we're adjourned.

Adjourn.

9:50 am