

NOTICE OF PUBLIC MEETING

August 17, 2004

Others attending all or part of the meeting: Mark Raymond, Betty Beverly, Beth Noel, Duane Noel, Thurston Dotson, and Betty Dotson.

Pledge of Allegiance. (Everyone recited the pledge)

Chair Murray: Good Morning and welcome to the County's regularly scheduled public meeting. My name is Mike Murray, to my left is Commissioner Varone, to her left is Carole Byrnes our executive secretary. Commissioner Tinsley is on vacation this week. To my right is Sharon Haugen our Director of Planning, to her right is Ron Alles our Chief Administrative Officer. Walking in is Paul Stahl our Deputy County Attorney.

Public Hearing on Proposed Use of Local Law Enforcement Block Grant Funding. (Sheriff Liedle/Jaci Grenfell)

The Commissioners will consider the proposed use of funding in the amount of \$7,508 for the Sheriff's Office.

Jaci Grenfell: Good Morning Chairman Murray and Commissioner Varone. It's been a while since I've been up here. This is our annual block grant and as you can see it has been greatly decreased due to the other areas of funding. This year our total award is \$7,342 federal, I'm sorry \$7,508 federal with a county match of \$834. Of that, \$7,342 will be used to purchase mobiles and hand held radios and the other is \$1,000 for grant training that is required and so we are asking for your approval on this expenditure on accepting this grant.

Chair Murray: Are there any questions of Ms. Grenfell? Let me conduct a public hearing and we'll try and get it taken care of. This is a public hearing, anyone that wishes to comment in favor of and opposition to or speak in general on the public, proposed use of the local law enforcement block grant funding, now is your opportunity to comment. For the second and for the third and final time. This closes the public hearing. Commissioner Varone?

Commissioner Varone: Mr. Chair I move approval of the proposed use of local law enforcement block grant funding and it's broken down for \$7,342 for mobile and hand held radios and \$1,000 for required grant training and authorize the chair to sign.

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

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries. Since the Sheriff has been detained we'll skip down to item #5.

FYI: Request for Proposal for Countywide Paging System. (Sheriff Liedle/Mark Adams)

The Commissioners will consider the RFP for the Sheriff's Office. Bid Opening is August 31.

Cheryl Liedle: I am prepared and I apologize for my lateness. Good Morning Mr. Commissioner, Madam Commissioner and staff. The Lewis & Clark County Sheriff's office has put together a request for proposals that we're asking your approval on. This request for proposal is for a countywide paging system to replace our current outdated voice activated paging system. There is a major public safety issue with our current system. This RFP be it issued as part of our countywide concept demonstration project funded through the FEMA grant and local match funding. The RFP asks for immediate acquisition of a turnkey countywide alter high frequency alpha numeric simulcast paging system that meets the needs of the user agencies. Immediate acquisition of a minimum of 500 paging units and a recommendation for maintenance and operating governance structure for paging communications that will allow for the continued expansion development and enhancement of the system itself. And we are asking for an immediate publication on the RFP because of the short time frame we're dealing with with this radio project with a closing bid date of August 20th and a bid opening of

August 20th. A successful start up would be then on August 30th, we will use our existing infrastructure of towers that we are establishing under the project to be the backbone or the tower system for this paging system. I'm asking your approval on this RFP.

Chair Murray: Questions for the Sheriff?

Commissioner Varone: Mr. Chair I move approval of the request for proposal for countywide UHF paging system and authorize the chair to sign.

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

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries. Sheriff as long as you're there lets than move into the Sheriff's Office Grant.

Sheriff Office Grant. (Sheriff Liedle/Jaci Grenfell) (postponed from 8/12/04))

The Commissioners will consider the grant.

Cheryl Liedle: The homeland security funding that is distributed between Counties and the State has been changed and it's an appropriation this past year. The funding that was granted to the State of Montana will now be distributed on a competitive bases by the Montana Board of Crime Control in the form of a grant. The Lewis & Clark County concept demonstration project will be applying for this grant and the application is in front of you. We have amended the application to add additional mobile and portable units for two reasons. One to better equip the people here that are being served under phase one of this project which is currently under way and also then to fully equip people that will be affected and I'm talking about public safety providers who will be affected by phase two which is the Lincoln stonewall and Augusta area. Also included in this grant are the costs of bringing electricity to the Stonewall Mountain site, which is a new site for the concept demonstration project. We are erecting this site under phase one but only as a solar powered site. The interest in stonewall is incredible by other agencies not only Lewis and Clark providers but the federal government and state agencies as it is an ideal site for a tower. Thus loading that site beyond the capabilities of a solar powered system. We're asking under this grant to fully electrify that site and give us the ability to add it to the P25 digital trunk system that we are installing in the greater Helena area. That also provides it as a jump off point for the northern tier project taking that radio system further up into Kalispell avoiding the Glacier Park problem and enabling expansion of this project statewide. In addition, we're asking that the site in Augusta Montana which is a new site that we're building under the first phase of this project be developed fully, possibly moving the tower to a more ideal location and installing P25 digital trunked system in the Augusta area also that also gives a jump off site for the northern tier project into the Great Falls area. The total amount of the grant is just a small amount over two million dollars, \$2,009,600.00 is what we are requesting at this time. I'm asking for your blessing and approval to go forward with this grant, the deadline for submittal to the Board of Crime Control is August 18th, which is tomorrow. Any questions?

Chair Murray: Questions of the Sheriff?

Commissioner Varone; Mr. Chair, not questions but comments. Sheriff Liedle I think you've done a commendable job and these two radio sites we've known for a long time have needed upgrading and to be able to apply for a two million dollar grant with only twenty four thousand in change in match I think is absolutely incredible and so I want to commend you and your staff for putting all the information together and coming up with the ideas, they're really making our County top notch location for a radio receivers and to be able to partner up with other locations across the State.

Cheryl Liedle: Thank you very much.

Commissioner Varone: Mr. Chair I move approval

Chair Murray: Wait, hold on please. I've got questions. Sheriff on Stonewall, have you ruled out using solar or are you putting in a hard line?

Cheryl Liedle: We will be using solar under the first phase of this project. What we are proposing under the grant is to bring the electrical line to the site so it will have the capability of the loading that is being asked of us at this point. Because of the ideal location and the coverage that Stonewall provides we have gotten contacts by the local Federal Bureau of Investigation and the Montana Department of Transportation, the US Forest Service as well as the local responders in surrounding Counties to use this site as an interoperable site. We as a consequence of that loading electricity is going to be needed. If it is used as a backbone to contact the northern tier and run the interoperable system statewide system it will need electricity also to carry that capacity.

Chair Murray: In the plans Sheriff, for Augusta does the plan have us moving off of Sunset Mountain to a new location?

Cheryl Liedle: We will still have a tower site at the Sunset Mountain location because it is also key to continuing the microwave system, the Sunset Mountain location will continue. We are upgrading that site, we are however moving our equipment from the Granite Butte site which is currently our west repeater and we are moving that equipment to the Stonewall Mountain site. For Augusta we are moving the proposed equipment, Sunset will be a connector to the new repeater that we're putting up under phase one which is on the forest service tower there in the town of Augusta. Under phase two we're proposing to move that tower to a location outside of town at a higher elevation to provide even better coverage for the local responders, better paging, and then also to be a jump off point for the microwave and additional tie to the northern tier and statewide project. So Augusta is going to become a major communication site.

Chair Murray: Thank you. Hopefully at our September meeting or in the future you'll share that with Augusta that the County does consider them a major communication site.

Cheryl Liedle: and I would, I'm being hesitant because I want to make sure we're successful on that grant before I make them any promises.

Chair Murray: In the grant itself, the project director Mark Adams will be here through the life of this grant, is that correct?

Cheryl Liedle: I am paying the cost for Mark Adams contract currently out of my budget and that will be extended to the life of this project for continuity. Now we have hired a system administrator that will be coming on board with us on August 30th. That person will then do the transition from Mark Adams contract to being an employee of Lewis & Clark County and running this system full time.

Chair Murray: Thank you. Sheriff, I echo Commissioner Varone's comments on the way you've moved this project along, you're to be congratulated and if Commissioner Varone is ready since I rudely interrupted you a motion would be in order.

Commissioner Varone: Actually, Mr. Chair I think I owe you an apology, we've had a couple of meetings on this before hand so I was up to speed and you weren't so I appreciate those questions for behalf of those folks that are in the audience and listening in and okay now I'm ready to make my motion. I move to approve the Sheriff's application for a grant through the concept demonstration project to include the Stonewall site, the Augusta site, and that includes personnel contracted services, travel and per diem, equipment and operating expenses in the amount of \$2,009,600 and authorize the chair to sign.

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

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries. Sheriff before you got here, Jaci presented and we had the hearing on the

block grant funding for you office which was passed.

Cheryl Liedle: Okay, thank you very much. We are concentrating on as you know radio equipment so that will be our big focus over the next few years. Thank you very much.

Chair Murray: Thank you.

Resolution levying and assessing a special assessment on property within the Cave Gulch Rural Improvement District No. 2004-5, to defray the costs of funding improvements for flood mitigation and the repayment of a loan from the County within said district. (Marni Bentley)

The Commissioners will consider the resolution.

Marni Bentley: I don't have anything else to say, I think you said it all.

Chair Murray: Succinctly too. Frank, excuse me, will you pass out the agenda and the sign in sheet please. Are there questions?

Marni Bentley: I actually have more to add to that.

Chair Murray: I thought we were going to get off easy today.

Marni Bentley: Not quite. I just wanted to let you know that I did follow the statutory requirements in sending out notice to all property owners and publishing the legal ad. I did have to adjust the assessment because I lost, well some of the assessments, or some of the geo codes were combined so I had fewer geo codes, I have a BLM lot that won't have a tax bill this year that I had left on the list so I need to take that one out for this year, so I only have nine geo codes splitting the total cost, so the flat fee assessment will be \$336.98 per year per geo code. I have a new resolution reflecting the new assessments and we will need to hold a rate hearing next year to get the new BLM lot and spread the costs throughout all the geo codes. Staff recommends approval of the new and improved resolution setting the assessments for the Cave Gulch RID at \$336.98 per year per geo code for a period of ten years.

Chair Murray: Questions of Mrs. Bentley?

Commissioner Varone: Mr. Chair, I do have a couple. Marni when I read this the other day it talked about a couple of the geo codes being combined from two different folks that own the property out there. I understand that it's easier to separate that out by geo code, which doesn't necessarily coincide with the amount of land that's involved. From a fairness perspective, separating it out by geo code rather than the amount of land is that really the fair way to go?

Marni Bentley: In this case we did because some of those geo codes and those lots, what was considered a lot was like .2 acres and that was what was combined into another lot.

Commissioner Varone: So in this instance it works out

Marni Bentley: In this instance it works

Commissioner Varone: Thank you.

Chair Murray: Ms. Bentley why is BLM being excluded from payment

Marni Bentley: Federal lands are not assessed for RID's and it hasn't been transferred to the private owners and it hasn't had new geo codes assigned to it. But by the next tax year it will and that's why we'll need to hold a rate hearing next year to bring those in, they're in the district but they need to be assessed next year for a new rate hearing.

Chair Murray: Was BLM one of the contributors to the overall project

Ron Alles: Yes

Chair Murray: and you don't know the amount right off

Ron Alles: I don't know the amount right off the top of my head but I know the US Forest Service, BOR, BLM and it seems like there was one other one

Marni Bentley: Soil and Conservation

Ron Alles: Soil and Conservation all participated in that project and actually put up I want to say about $\frac{3}{4}$ of the total project money.

Chair Murray: Thank you. Further questions? Thank you Mrs. Bentley. This is a public hearing, anyone that wishes to comment in favor of and opposition to or speak in general, now is your opportunity. Yes Sir if you'll come forward and if we can get your name and address please.

Mark Raymond: I'm Mark Raymond, I have a Canyon Ferry Cabinetry, 8001 Canyon Ferry Road which is across the highway from this project. At the time of this project, I signed a release and bowed out of the project because it was not going to benefit me. What they wanted to do in the project is remove part of my building and actually that was the only thing the project was going to protect in the first place and the project didn't protect that it was the State putting another culvert in the Canyon Ferry Road which should have been in there in the first place because they took a bridge out and replaced it with one small culvert. I basically saved the project, my share of this money by opting out of it. I feel like I did not benefit from the project, I bowed out of it once, I signed a release it's recorded and they agreed to stop the project on the other side of the highway from me. But here I am here being put back into it again.

Chair Murray: Mr. Raymond when the mudslides or floods were taking place, was your business or your property affected?

Mark Raymond: One time out of about the four times and that's the portion of the building that I am going to remove the project would have removed it if I didn't opt into it but I felt there was no protection needed for it.

Chair Murray: Thank you. Further questions of Mr. Raymond? Thank you Mr. Raymond. Is there anyone else that wishes to testify in favor of and opposition to or speak in general. For the second. For the third and final time. This closes the public hearing. Questions Commissioner Varone?

Commissioner Varone: Mr. Chair if we can have Marni come back up to the podium and maybe have her respond to Mr. Raymonds comments, or Sharon.

Sharon Haugen: Mr. Chairman, Commissioner Varone. Staff took quite a bit of time in analyzing this and we worked with the engineers although Mr. Raymond signed something that waived out there's a couple of issues. One, the owner of the property itself, Mr. Utick, Mr. Raymond owns the buildings so subsequently also would have had to sign to opt out of that and in doing an analysis the engineer could not say that his property would not benefit in fact he indicated that it probably did benefit from the overall project but that with him opting out there was a change in the project but there was still some benefit to Mr. Raymond by the project, the buildings themselves. Either way we never did get anything in writing from the engineer. I wish I could present you something, but I can't.

Ron Alles: I would just add that as per statute staff needs to make a determination who are the benefiting properties and whether or not you opt out or choose to opt out isn't a requirement you can't opt out if you are a benefiting property. Now in this case I think Mr. Raymond tried to opt out of the project itself but that didn't necessarily conclude that he was not a benefiting property to the overall project and I can tell you that if we, in all likelihood if we change the number of people here we need to go back and change the level of assessment too because in order to recoup that money that the county fronted this RID.

Paul Stahl: If I might add I think that we probably have about 80 hours of staff time on this trying to make it fair to Mr. Raymond and to everybody else and we went back and forth and up and down and did everything we possibly could and I think that in conjunction with what everybody else said, the law says if you're a benefiting property and there is some benefit and it may not be as much as he wants or may not be the kind he wants but there is some benefit that is accorded here and so after, I mean we spent 80 hours the total number, we just talked and worked with this and went out to the site again, talked to the engineers, I looked up the law, looked up the law again, we didn't do this lightly.

Commissioner Varone: Mr. Chair I'm comfortable with that answer and that staff did everything that they could and that Mr. Raymond is in fact a benefiting party.

Chair Murray: Commissioner, I'd like to pose one more question to Mr. Stahl. If Mr. Raymond is a tenant in the five years corporation or the Utick family actually owns the property why then is Mr. Raymond

Sharon Haugen: Mr. Chairman, Commissioners. Mr. Raymond is buying, a contract for deed or leasee he is not a tenant so Mr. Raymond as I understand it owns the buildings that benefit Uticks own the underlying land.

Chair Murray: Does that confuse the issue if one party owns the land and another party owns the structure, does not? You're quite succinct today Mr. Stahl.

Paul Stahl: On the record, that's one of the things we looked and we feel this is where we go.

Chair Murray: Thank you

Paul Stahl: Not without a great deal of struggle, not without a lot of, we worked at this and worked at it and just think this is the way it has to be.

Chair Murray: Commissioner Varone although we've closed the public hearing, Mr. Raymond is indicating that he would like one more opportunity to speak if you're in agreement?

Commissioner Varone: Yes

Chair Murray: Mr. Raymond if you have further comment, please come to the mic and we'll listen to it.

Mark Raymond: The only thing I wanted to clear up is the ownership of the property. That's been muddied for thirty years. The County used to own the building, they say, whatever, as of two or three years ago the County, Mr. Utick and everybody came into agreement, I have a buy-sell agreement, I am purchasing the property from the Uticks, building, land and everything. Uticks, if what I'm hearing is right there's deny because no the Uticks did not say anything or whatever, Uticks had never, were never approached or anything else in this whole project. I was because I was the occupier I guess and no buyer of record on the property; as far as I know Uticks know nothing about this.

Chair Murray: Mr. Raymond as hopefully you heard this morning, our staff indicates that after lengthy study they believe that the property you are purchasing is a benefiting property to the entire RID.

Mark Raymond: It wasn't the benefit of that project, it was a benefit of what the State did which is not included in the cost of that project. The State allowed the water to get underneath the road instead of damming up where the project ended and that's how come it flooded in the first place is because the road was acting as a damn.

Chair Murray: In your opinion, Thank you

Mark Raymond: No, no, ___ the water.

Chair Murray: I'm not going to argue with you

Mark Raymond: I'm not going to argue about it I just wanted to try to clarify the ownership of the property.

Chair Murray: Thank you Mr. Raymond. Commissioner Varone?

Commissioner Varone: Mr. Chair, I'm satisfied that the staff has researched and provided the list of benefiting properties to us. Because Mr. Raymond opted out originally, I believe it doesn't prohibit him from being a benefiting party now as a matter of fact, I think he's probably, not paid his fair share yet and hopefully that will be rectified now and there were several Federal and State and local organizations that worked together with the citizens out there to repair that problem and now the citizens have to live up to the deal that they signed and that includes all of the benefiting parties and those that didn't sign but would benefit as a result as well. With that in mind, I make a motion to approve a resolution levying an assessing a tax upon all benefited property within the Cave Gulch Rural Improvement District and authorize the chair to sign and there's amounts here that I'm going to read, one is \$303.28 which is on the resolution but in the information it says \$302.28 so whether it's \$303 or \$302 whatever that amount is, \$336 I heard that amount too and I didn't even see that in the documents so it's \$336 what?

Marni Bentley: \$336.98 per year per geo code and here's the new resolution

Commissioner Varone: Sorry, I was madly trying to find, so in the amount of \$336.98 and authorize the chair to sign.

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

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries. Commissioner if we can return back to item #3, the Sheriff has arrived.

1Proposed Major Subdivision, Preliminary Plat to be known as Grassland Major, Phase 1. (Applicant, Duane & Beth Noel) (Planner, Frank Rives) (cont. from 6/8/04)

The Commissioners will consider creating a subdivision of 63 residential lots, ranging in size from .229 to 5.31 acres, and a remainder lot of 46.72 acres, which may be developed in the future as a second phase. The proposed subdivision is located in the NE1/4 of Section 8 and the NW1/4 of Section 9, T10N, R3W; generally located east of and adjacent to the Pleasant Valley Subdivision and south of and adjacent to Munger Road. **[NOTE: The applicant has requested the public hearing be continued to August 24 to have all three commissioners present and render a final decision September 2.]**

Chair Murray: The applicant has requested that a full commission be seated when we hear the proposed subdivision, major subdivision Grassland Subdivision. Since this has been advertised today as a public hearing anyone present that wishes to comment today we will receive your (tape ended) (tape begins)... the deadline, the statutory deadline at the request of the applicant has been extended until September 2nd. Mr. Rives if there is something you want to say succinctly we'll entertain you.

Frank Rives: Yes Sir, Commissioner Murray, Commissioner Varone I just wanted to point out that the applicant's are present in case there is any questions.

Chair Murray: Questions of the applicant? This is a public hearing, anyone that wishes to comment today in favor of and opposition to or speak in general, now is your opportunity. For the second. For the third and final time. Yes Sir. If we can get your name and address for the record please.

Thurston Dotson: Chairman Murray, Commissioner Varone. My name is Thurston Dotson. My wife and I we have our home at 3845 Kitt Drive in Pleasant Valley. I have a comments on file, there's a record of my concerns about the project. I come to this making my comments from a conflicted emotional point of view. I know you

have the unenviable position of having to fairly and equitably balance all the issues revolving around these subdivisions make sure they are appropriately designed and also that the affected people are fairly and equitably dealt with who are affected with this project. My major concerns in the past and I'd like to reinforce those today concerns the access that's proposed through Karmen and Kelly Road in the planning session earlier the applicant's they proposed to join the RID for Fawn Meadows which is a neighboring subdivision, access through Munger Lane. This would provide the applicants and the residents in this subdivision probably thirty years at least of access without having to make any financial commitments to any road maintenance. However, they propose their project and access go through Karmen and Kelly, which is reaching the end of their effective life. In so doing, the applicants and if it's approved as proposed would thrust upon the residents of Pleasant Valley solely the responsibility for maintenance and upkeep of Kelly and Karmen Road yet the residents of this subdivision, new subdivision will reap the benefits of that. I feel that your duty as Commissioners is to make sure these projects are appropriately and fairly dealt with and the proposals deal with everybody fairly and equitably yet as proposed and if it's passed as proposed there will be an unfair and unreasonable financial burden thrust upon those of us that reside in Pleasant Valley. I am a strong and ___ opponent of personal property rights and I think that they have the right to develop their property, as it is legal and appropriately meet the guidelines of the Commission. However, I think those personal property rights end at their property line. In my own property, if I propose a development to do something on my property that is appropriate and legal, I wouldn't even ask my neighbors to assist me in that, financially in that project and that's precisely what is happening in this development. Those of us in Pleasant Valley will have no choice but to maintain those roads which the applicants and the residents of the subdivision reaping the benefits and I thank you for your time.

Chair Murray: Thank you Mr. Dotson. Is there anyone else that wishes to testify today rather than at the public hearing? Anyone else? This closes the public hearing. For the record Mrs. Byrnes if you will have Mr. Dotson's comments brought forward. Ms. Dotson if you want to speak, come forward and we need your name and address please.

Betty Dotson: My name is Betty Dotson, I live at 3845 Kitt Drive. My question is we attended the last meeting and they planned to do a traffic study and as yet I don't think that traffic study has been done on the Frontage Road. We go up and down the road everyday and I haven't seen any markers. My question is, are they still going to do it?

Chair Murray: I don't know. In our public hearing we will answer your question.

Betty Dotson: Remember that was something that was supposed to take place.

Ron Alles: Mr. Chairman

Chair Murray: I don't know that. This is the first time the subdivision has been presented to the commission.

Betty Dotson: No, the last meeting we had which was in June, we had public comments and the problem with the Frontage Road and the traffic was brought up and you promised to do a traffic study.

Ron Alles: Mr. Chairman, Commissioner and Mam. A request has been made to the Department of Transportation to perform a speed study on Frontage Road. The indications from the Department are that it will be, it will not be until this Fall or early Winter before that's completed.

Chair Murray: So we're awaiting on the State, the traffic study you asked for is from Sierra Road all the way to Custer. Yes Mam.

Betty Dotson: I thought it

Chair Murray: The study has been requested.

Betty Dotson: I thought it was going to take place before this decision was made on the subdivision.

Chair Murray: Hopefully the study will be completed by the time we make a decision.

Betty Dotson: Thank you.

Chair Murray: Is there anyone else that was hesitant to speak that wishes to speak. This closes the public hearing for today. The Public hearing will take place on the 24th of August in this room at this time and the final date on resolution of the subdivision request is September 2nd.

Sharon Haugen: Mr. Chairman you should probably take formal action, extending that since that does require action from the commission to formally extend that period of time.

Commissioner Varone: Mr. Chair, Thank you Sharon, Mr. Chair, I make a motion to continue the proposed major subdivision preliminary plat to be known as Grassland Major phase one continued to August 24th to have all three Commissioners present and render a final decision on September 2nd.

Chair Murray: At the request of the applicant

Commissioner Varone: At the request of the applicant.

Chair Murray: Didn't want to coach you. Second. All in favor of the motion signify by saying Aye

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries. Mr. Dotson?

Thurston Dotson: May I ask a question for point of clarification. At the next meeting will you be accepting public testimony or is this the last opportunity to

Chair Murray: No, we, for convenience for you we accepted your testimony this morning. Public testimony will take place on the 24th other than your comments you've already testified so we'll incorporate your comments in the record.

Thurston Dotson: Thanks, I appreciate your _____

Chair Murray: Yes Sir.

Resolution Ordering a Refund of Taxes/Fees/Assessments. (Ron Alles)

The Commissioners will consider the resolution to refund Applegate RID property owners (1) Joyce Benz \$97.71; and (2) Curtis Laingen \$271.67 (total \$369.38).

Ron Alles: Mr. Chairman, Commissioner Varone. There are two refunds being requested here. One is to Ms. Joyce Benz and another to Curtis Paul Lanigen. This is part of the Applegate RID clean up process. We're still going through, there's only a few left. Staff recommends approval.

Chair Murray: Thank you. Commissioner Varone?

Commissioner Varone: Mr. Chair, I want to have a party after this is done

Ron Alles: So do I

Commissioner Varone: I make a motion to approve the resolution ordering a refund of taxes/fees/assessments paid, the total amount is \$369.38 separated out as follows; Joyce Benz \$97.71 and Curtis Laingen \$271.67 and authorize the chair to sign.

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

Chair Murray: Aye. Motion carries.

Resolution Requesting Prosecutorial Assistance. (Ron Alles)

The Commissioners will consider the request from the County Attorney's Office to appoint Special Assistant Attorney General in the prosecution of Montana State Auditor Case No. 2004-400.

Chair Murray: Are there questions? Is there a motion?

Commissioner Varone: Mr. Chair, I would just like a little more explanation. There's really no more information other than this has to do with the State Auditor's Case. Do you have any information?

Ron Alles: Yes, Mr. Chairman, Commissioner Varone, on occasion the County Attorneys Office seeks assistance from the State to perform prosecutorial services on certain cases. This happens to be an insurance fraud case and the Attorney General's office has some of that expertise. By resolution the County Commissioners must authorize that assistance on behalf of the County Attorneys office. Details of the case, I don't have all of that except that it's Montana State Auditor Case No. 2004-400. The appointment is for John Kurtz who is a special assistant attorney general for the State of Montana and they're dealing with the details of the case. Does that give you enough?

Commissioner Varone: No, but I guess it's going to have to because we don't have the County Attorney here and I don't know if Paul

Chair Murray: You do have a County Attorney here

Commissioner Varone: Well the Deputy County Attorney, but

Paul Stahl: They bring in expertise here, this is what they do but only the County Attorney has jurisdiction to prosecute so they can't prosecute, we will have to do it but they have all the expertise and so it doesn't cost us anything but they are set up to do these all around the State kind of like they have special prosecutors to prosecute for small counties like murders and things like that well this is something like that because this is what this person does full time, has an expertise for us, it's pretty burdensome because this is insurance fraud is a difficult thing if you don't do it every day and to my knowledge this is like the third or fourth one in eighteen years so we don't get a lot of expertise at it so we're just asking them to come in and the State pays for the prosecution.

Commissioner Varone: Thank you, that was what I wanted you to say is there is no expense out of our County taxpayers pocket so Mr. Chair I move to approve a resolution requesting prosecutorial assistance under case Montana State Auditor Case No. 2004-400 and authorize the chair to sign.

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

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries.

Public Comments on Items Not Mentioned Above.

Chair Murray: This is the opportunity at our meeting that anyone that wishes to speak on an issue that the County has authority over, this is your opportunity and we have a lady that would like to speak. We need your name and address for the record please.

Elizabeth Beverly: My name is Elizabeth Beverly, my physical address is 7325 Two Bit Circle out in the Valley. I go by Betty Beverly, most of you know me by that. I'm an advocate. I've been out of town, I received a letter when I returned to town that comments, that written comments on a proposed subdivision by my house had ended August 16th. This is my first opportunity to comment on that. I'm really concerned about what is happening out in the valley by where I live, I worked through Commissioner Tinsley and the planning commission on a business behind my house that continues while you were investigating the gentleman moved there but he has a semi that still comes every Tuesday, UPS that comes down the road every day, Burrows Road has a hole probably the width of two car lengths, I mean the length of two car lengths and the width of one car length from the heavy traffic, it's not a RID which we could do, clear to the County Attorney and the water issue out there in the Valley two years ago we had to drop our piping in our well, we have a little over four acres, down to another 20 feet to be able not to suck air. As I drive home each day from work, coming down Green Meadow, you've approved about 30 new homes from John G Mine to Lincoln Rd. There small subdivisions, 5 Clink Court, the Timber Acres 5, off John G Mine 12, I mean we're getting a lot of homes out there, who's going to suck all this water, the water is going to go dry out there, I'm really concerned. The road issue to, this new subdivision they've already put in the road to the subdivision, and the size of the lots 1.59 acres with single family and individual well and onsite waste treatment and utilities, it's just crazy. They have a trailer park there that they say is existing drainfield and septic. We watched six weeks ago them put in a new septic on that trailer park, that lot 1A-1, we watched them put in, it wasn't existing because the people that owned the property that the manufactured home sits on, they were sharing a well so we know that that was new, it's not existing and then they have the other two parcels.

Commissioner Varone: Mr. Chair, could I just interrupt Ms. Beverly for a second, what is the name of this subdivision?

Elizabeth Beverly: Bluebird

Commissioner Varone: Bluebird?

Elizabeth Beverly: Yes, it's minor subdivision Bluebird creating three lots.

Commissioner Varone: Is that a subdivision that we have heard yet, and if not can we

Ron Alles: I don't believe so, we've got the letter, I suspect

Commissioner Varone: Are we premature in hearing this and if we are, are we kind of out of the governmental sync here

Chair Murray: Commissioners we're not going to hear it. What we can do today is if Mrs. Beverly has an issue that she wants agenda'd at a future meeting, we cannot act today without

Elizabeth Beverly: No, I understand, I wanted to extend my comments because it said I had to comment by the 16th, it was mailed on the 10th, I possibly got it in my PO Box on the 11th and I was out of town.

Chair Murray: Mrs. Beverly, I don't believe that this has come before us yet.

Sharon Haugen: No, Mr. Chairman, Commissioner Varone. What Ms. Beverly has and I don't have a copy in my hand, but what I suspect it is when we send out to adjacent property owners we send them a letter and ask them to comment by such a time so we can incorporate that in the staff report. It does not preclude the homeowner from making comments up to and including the date of the Public Hearing.

Elizabeth Beverly: Okay

Sharon Haugen: So you can, I think there probably is a public hearing date there

Elizabeth Beverly: the 31st of August

Sharon Haugen: you can come on the 31st of August, if you can't make it on the 31st of August Mrs. Beverly you can do written comments to the planning commission and the county commission and they'll get those and we'll incorporate those as part of the public record.

Elizabeth Beverly: Well I'm concerned because

Chair Murray: We're going to cut you off right now. Until this hearing is scheduled we're not entitled to receive information on

Elizabeth Beverly: So I can do that

Chair Murray: We certainly invite you back on the 31st Ms. Beverly

Elizabeth Beverly: Oh, I'll be back because I'm still concerned about the business that's happening. You know when the County Commissioner's and the County Attorney and the planning, you investigated the gentleman moved there and stayed there over night and now again he's leaving every night at six and coming back to work.

Commissioner Varone: Mrs. Beverly. I think that might, First of all I apologize for making your trip here and us not being able to hear you I wish we could, but we do follow the law. Regarding the business situation, if after the meeting you'll talk to Sharon about that maybe she can either a) provide some information or take some information from you and maybe follow up and look into that for you

Chair Murray: Commissioner Tinsley and I have been to the site, took a picture of the truck delivering to that individual, drove through the large excavation just west of the green meadow salvage so we're aware of the situation.

Elizabeth Beverly: It's been four years.

Chair Murray: We've been advised that we have no authority I believe Mr. Stahl?

Paul Stahl: That's correct. We, this is another one of those we spent a great deal of time on and have, we ultimately came to the conclusion, the legal conclusion that this is a legitimate activity that we cannot prohibit it, we just don't have quite enough to do it and I know everything Ms. Beverly said we are aware of, we know all of that, it still isn't enough under the rules and regulations as we understand them to prohibit it and we tried because the Commissioners asked because they knew Ms. Beverly was concerned and so there was a great deal of effort to try to resolve this but we just didn't have the authority.

Chair Murray: Thank you Mr. Stahl. Ms. Beverly we look forward to seeing you on the 31st of August. Is there anyone else that wishes to speak in our meeting today? For the second. For the third and final time. We are adjourned.

Adjourn.