

**PUBLIC MEETING  
December 28, 2004**

Chairman Mike Murray called the meeting to order at 9:00 a.m. Commissioners Tinsley and Varone are present. Others attending all or a portion of the meeting included Ron Alles, K. Paul Stahl, Janet Pallister, Marni Bentley, Jerry Grebenc, Dean Retz, Julie Dolan, Michael Kakuk, Jim Taylor, Dennis Iverson, and Carole Byrnes.

Pledge of Allegiance. Everyone recited the pledge.

Clarification of Language in Subdivision Regulations, Section III, Page 2, Step 1, Item (d). Commissioner Murray stated this is a clarification that resulted with a discussion following the adoption of the subdivision regulations on December 23. In the Commission's work session of December 22 one line was overlooked and not included in the December 23 discussion.

Commissioner Tinsley moved to clarify the language in the subdivision regulations described as "***Submission of credible evidence that the water system and the wastewater system designs for the proposed subdivision will comply with DEQ requirements.***"

Commissioner Murray stated this is the exact language found in two other places in the document (Section 4.8.f - minor subdivisions, and iii-7 –major subdivisions that eliminates the certification requirement from DEQ at the filing of the preliminary application).

K. Paul Stahl stated pursuant to Commission direction prior to adoption of the regulations because of raised considerations about requiring DEQ certification, the commission directed staff to change all references to DEQ certification or similar language to simply say that there had to be a submission of substantial and credible evidence. This is required by the attorney general opinion our subdivision regulations now contain sanitation requirements. The term substantial and credible evidence was chosen and is used throughout Montana law and deals with burden of proof. There can be conflicting substantial credible evidence and the fact finders (the commission) will make a determination. The commission will have to make a decision whether there is enough evidence and the obligation is on the developer to show they have complied with county regulations and whether or not there is conflicting evidence. Staff will go out of its way to have pre-application conferences to explain to people what the requirements are and be able to prove they can comply with the regulations.

Commissioner Varone stated she will vote for this change, but does not agree with the language. The language needs to be consistent in the document.

The motion to clarify the language in the subdivision regulations carried unanimously. This eliminated the only red flag that was pointed out to the Commission in the adopted

document where it was stated certification was necessary. It is not necessary in Lewis and Clark County. This document will be in effect February 1, 2005.

Change Order #1 for 2004 Lewis and Clark County RID Maintenance Projects. Janet Pallister reported the change order with Helena Sand and Gravel is a decrease in the amount of \$28,701.80 for their contract for RID maintenance projects. The decreases in the contract were due to the elimination of several bid items that were done for a less costly option and for the elimination of another bid item. Staff recommends approval of the change order. Commissioner Tinsley moved to approve the change order and authorize the chair to sign. Commissioner Varone seconded the motion and it carried unanimously.

Request for One-Year Extension of Preliminary Plat Approval for Emerald Ridge Major Subdivision. (Applicant, Rio Group, LLC) Michael McHugh reported Morrison-Maierle, on behalf of the applicant, requests a one-year extension to December 30, 2005. Due diligence has been shown. Staff recommends approval. Commissioner Varone moved to grant approval of a one-year extension to December 30, 2005. Commissioner Tinsley seconded the motion and it carried unanimously.

Kunnary Subdivision Status. (cont. from 12/16/04) Commissioner Murray stated the tape was not available, but he had the opportunity to view the minutes as well as the documents submitted by Mr. Kunnary and is prepared to vote this morning.

Ron Alles reported staff made a determination that the applicant, Mr. Kunnary, needed to follow the county's subdivision review process. The applicant had hoped the subdivision application could be reviewed as a minor. Staff brought this issue forward to the Commission for discussion and determination whether or not you agree that it should be reviewed as a major subdivision or whether it should be reviewed as a minor.

Commissioner Tinsley moved that the status of the Kunnary subdivision be considered as a major subdivision according to county subdivision regulations and upon the recommendation of staff. Commissioner Varone seconded the motion for discussion purposes.

Commissioner Varone voted against the motion because there is enough information supplied that staff could not recall some things and the applicant was adamant that he had been given documentation for the minor subdivision and was told it was a minor subdivision. She believes enough confusion exists that the commission should err on the request of the applicant and what he remembers.

Commissioner Tinsley stated he was leaning that way until he went through the notes supplied by staff from the initial pre-application meeting with Mr. Kunnary. Staff's notes state a major versus a minor determination will need to be made by planning staff.

Commissioner Murray stated Mr. Kunnary left the first meeting believing he did in fact have the application forms and the information for completion of a minor. At the second pre-application meeting staff made it clear a major subdivision was necessary and an environmental assessment is necessary. The window of opportunity closed on Mr. Kunnary due to his lack of activity.

The motion to consider this proposal a major subdivision carried 2-1. Commissioner Varone voted against the motion.

Resolution Clarifying the Boundaries of the Lakeside Fire Service Area. Marni Bentley reported this resolution is a continuation of clarification of fire district boundaries. The Lakeside Fire Service Area was created in 1987 and has been amended over the years, but the perimeter description was never updated. Staff recommends approval of the resolution, which includes a complete perimeter description. Commissioner Varone moved to approve the resolution and authorize the chair to sign. Commissioner Tinsley seconded the motion and it carried unanimously.

Resolution Correcting a Road Name in the Oro Fino Lot 13AA Minor Subdivision. Jerry Grebenc reported the final plat was filed on July 28, 2003 and indicated that the access road into the subdivision was named Legacy Court. Prior to the filing of the final plat, the applicant had submitted that road name to Marni Bentley who at that time reviewed all county road names. Ms. Bentley indicated the road name would not work because it was a duplicate within the valley. The developer submitted a second name which was Harrahs Court that was reviewed and approved. Unfortunately that road name did not make it on the final plat and the plat was filed with the road name Legacy Court. The title company has asked that this discrepancy be resolved because the developer is in the process of selling lots within the subdivision. Staff recommends approval of the resolution to correct the road name for this subdivision. Commissioner Tinsley moved to approve the resolution and authorize the chair to sign. Commissioner Varone seconded the motion and it carried unanimously.

Public comments on matters not mentioned above. None.

There was no other business and the meeting adjourned at 9:30 a.m.