

**PUBLIC MEETING**  
**April 17, 2001**

Chair Karolin Loendorf called the meeting to order at 9:00 a.m. Commissioners Murray and Varone were present. Others attending all or a portion of the meeting included Ron Alles, Alicia Pichette, Sharon Haugen, Kay Hanson, Kathy Macefield, Frank Rives, Robert Rasmussen, Frank Flynn, Michael McHugh, Dennis Lay, Greg Egbert, Jim Taylor, Craig Byington, Patricia Burke, Janet Pallister, Eric Griffin, Gene Thursk, George Hall, Mel Luehr, Iris Luehr, Edward Swetish, Leonard Ennis, Chris Petersen, Barbara Cole, C. Hal Manson, Don Liles, Russell Ehman, Rev. Daniel Shea, R.J. Berger, James Weaver, Jane Weaver, Dorothy Kruse, Debbie Cronin, Dennis Lay, Jay Cronin, and Carole Byrnes.

Minutes. There were no minutes to approve.

Auditor's Invoice Report. Alicia Pichette reported that 684 invoices have been selected for payment in the total amount of \$580,658.30. A copy of this report and the claims are available for public inspection in room 341.

Funding Request-Montana Youth Homes. Commissioner Murray moved that the Commission table this request for funding to April 19 at 10:00 a.m. Commissioner Varone seconded the motion and it carried unanimously.

Grant Request-Historic Preservation. Kay Hanson reported that 13 Montana cities have part-time or fulltime Historic Preservation Officers. The City of Helena and Lewis and Clark County cannot receive a \$5,500 grant from the state unless they have a 20-hour per week HP Officer. The Historic Preservation Committee is asking for joint support from the City and the County each in the amount of \$5,000.

Further discussions will be held during the May 3, Joint Work Session.

Consideration of Creation of the Gilbert Rural Improvement District No. 2001-4 for the Purpose of Equitably Funding Road Improvements and Maintenance Within Said District. Robert Rasmussen reported that the 15-day protest period has ended. Staff calculated the protest to be 52.38% of the cost of the proposed work in the district. This is sufficient protest to bar further proceedings; however, Our Lady of the Valley Catholic Parish believes it is not equitable to assess the church for both the Gilbert and Vandenberg RIDs for road improvements. If the church property is dropped from protest, this would lower the percentage and would bar the Commission from further proceeding.

Frank Flynn, 1495 Shirley Road. Mr. Flynn stated that at the public meeting at Rossiter School he was told the church property would only be included in the Vandenberg subdivision.

Robert Rasmussen stated that subsequent to that meeting and investigation of the access into the church property, staff recommended that the Commission include the church property in both districts because of the two accesses.

Rev. Daniel Shea. The letter as interpreted by staff is correct. The church is not contesting the two pieces of property owned by the church including parcel B, C-13 and D-15, but are protesting that the church be assessed under both subdivisions.

Hearing no other public comments, the Chair closed this portion of the hearing. Commissioner Varone moved that considering the recalculation at 47.62%, the Commission approve the RID for improvements and road maintenance. Because the church is a benefiting property to the district, parcels D15 and C13 should remain in the district. Commissioner Murray seconded the motion and it carried unanimously.

Consideration of Creation of the Ehlers Second Rural Improvement District No. 2001-5 for the Purpose of Equitably Funding Road Improvements and Maintenance Within Said District. Robert Rasmussen reported that the protest period has ended. Calculation of the protest is 88.24% of the cost of the proposed work and is sufficient protest to bar proceedings on the creation of this district.

Hearing no public comments, the Commission closed this portion of the hearing. Commissioner Murray moved that having received more than 50% of protests; the Commission discontinue any further consideration of this RID. Commissioner Varone seconded the motion and it carried unanimously.

Commissioner Murray moved that the county discontinue any hard surface maintenance of the Ehlers Subdivision. Commissioner Varone seconded the motion and it carried unanimously.

Consideration of Creation of the Vandenberg Village Rural Improvement District No. 2001-6 for the Purpose of Equitably Funding Road Improvements and Maintenance Within Said District. Robert Rasmussen reported that the protest period has ended. Calculation of protests received is 13.75% of the cost of the work. This is not sufficient to bar proceedings of the RID. The estimated annual costs for ten years of \$103; proposed estimated annual maintenance costs of \$47 per year. Subsequently, a rate hearing will be conducted.

Frank Flynn, 1495 Shirley Road. Mr. Flynn would like clarification that Shirley Road in its entirety be included in this project.

Patricia Burke, Stahly Engineering, 1010 Stewart. Ms. Burke stated that the actual distance calculated included Shirley Road to the abutment with the church property. The 50 feet of unpaved road will be paved if this RID is created.

Richard Berger, 1427 Sorenson Road. Mr. Berger requested a response to his concerns outlined in his letter. Commissioner Murray directed Public Works staff to respond in writing.

Hearing no other public comments, the Chair closed this portion of the hearing. Commissioner Murray moved that the Commission authorize and move forward with the RID including 50 feet of unpaved road currently abutting Mr. Flynn's property and respond in writing to Mr. Berger's letter of concerns. Commissioner Varone seconded the motion and it carried unanimously.

Proposed Minor Subdivision, Summary Review known as the Seliskar Minor. (cont. from 3/20/01). The Commissioners will consider creating two lots, each for one single-family dwelling. The proposal is located in the N ½ of Section 21, T9N, R4W; located approximately six miles south of Helena on Grizzly Gulch Drive. Frank Rives reported that the applicant requested a postponement of the hearing to May 15. Commissioner Murray stated he would be absent on this date. Commissioner Varone requested a full Commission be present. After discussion on tentatively dates to hear May 24 and render a decision May 29, Commissioner Murray moved to postpone this matter to the end of the agenda to allow Mr. Rives to contact the applicant's attorney for a date specific. Commissioner Varone seconded the motion and it carried unanimously.

Proposed Minor Subdivision, Preliminary Plat, Sweeney Creek Tracts, Lot 23 Minor. (cont. from 3-27-01). The applicant proposes to create four lots, each for one single-family dwelling. The proposal is in the SE1/4 of Section 33, T10N, R4W; located north of Highway 12 West, approximately 8 miles west of Helena. Jerry Grebenc reported that at the conclusion of the March hearing, the applicant requested that the Board consider his proposal as a three lot minor subdivision. Staff was then directed to draft conditions of approval. Subsequently, the applicant then asked the Board consider the proposal as a four-lot minor subdivision. Staff will prepare an adjusted copy of condition 6 to add a lot; condition 13.n and q; and condition 14.

Hearing no public comments, the Chair closed this portion of the hearing. Commissioner Murray moved that the Commissioner render a final decision Thursday, April 19, 2001. Commissioner Varone seconded the motion and it carried unanimously.

The Commission recessed and reconvened at 10:08 a.m.

Proposed Major Subdivision, Preliminary Plat, Heartland Estates Major. The Commissioners will consider creating 14 lots, each for one single-family dwelling. The proposed subdivision is generally located north of Herrin Road and southeast of York Road. The applicant, Greg Egbert, was present and indicated his willingness to proceed. Michael McHugh presented the staff report. The applicant has proposed covenants for this proposal including the establishment of a homeowners' association. An irrigation ditch located west of the property contains a high velocity of water and could present a danger to small children. Proposed access is from York Road which is

maintained by the MDT and Herrin Road which is maintained by the county. The applicant has proposed that the internal road be developed to county standards typical section 3. The applicant is required to obtain an approach permit from MDT for the approach onto York Road and from the County Permit Office for the approach onto Herrin Road. The East Valley Volunteer Fire District requested a \$500 per lot contribution be made for fire improvements. A storm water drainage plan must be submitted for approval. This proposal is located within a transition area and does comply with all county subdivision regulations. The applicant wishes to make a cash payment in lieu of parkland in the amount of \$1,934. The Planning Board recommended approval subject to 18 conditions. The Planning Board added a 13<sup>th</sup> condition relating to the fencing requirement for the irrigation ditch, and amended condition 12 to allow for the applicant and the fire district to negotiate for fire improvements, and approved 19 conditions as amended.

Commissioner Varone directed staff to utilize GIS mapping in the staff reports. Commissioner Varone believes that condition 4, county weed "law" should be changed to county weed "plan," and requested that the Commission be supplied with a copy of Resolution 1985-22 regarding approach permits as referred to in condition 5.

The applicant, Greg Egbert, stated his concerns are outlined in his letter to the Commission dated April 5, such as the payment to the East Valley Volunteer Fire District; the fence requirement; and condition 16 f and g the waiver of right to protest joining a wastewater treatment system improvement and maintenance district. He has proposed a homeowners' association to deal with the community water system and requested that this condition be eliminated.

Jim Taylor discussed the required fencing, i.e. its appearance as it relates to each landowner. Suggested that the Commission look at the liability issue of requiring a fence line around the ditch. An option is to leave the liability to each landowner. In the waiver of right condition, Mr. Taylor asked what are people waiving their right to? He suggested that wells should be improved according to the requirements of public well systems. Lastly, relating to the drainage issue, several areas are designated as retention sites and are also on the downstream end.

Dorothy Kruse, 2904 Herron Road. Mrs. Kruse has no objection to the proposed subdivision. Her concern is the irrigation ditch because the school bus stops in front of her house and the children would be crossing the ditch.

Hearing no other public comments, the Chair closed this portion of the hearing. Commissioner Murray moved to render a final decision Thursday, April 19 at 10:00 a.m. Commissioner Varone seconded the motion and it carried unanimously.

Proposed Major Subdivision, Preliminary Plat, Lake Country Estates Major. The applicant proposes to create 13 lots, each for one single-family dwelling. The proposed subdivision is located in the NW 1/4 of Section 12, T10N, R1W; located east of and adjacent to East Shore Drive and south of Canyon Ferry Road. The applicant, Dennis

Lay, was present and indicated his willingness to proceed. Michael McHugh presented the staff report. The applicant has proposed covenants. The applicant proposes to install onsite wastewater treatment systems and individual wells and there appears to be adequate water supply. There is an overhead electric line. The Bureau of Reclamation owns East Shore Drive and would be responsible for issuing approach permits onto East Shore Drive. The road network does comply with county road standards. Staff recommended that no access restrictions be placed on proposed lots 1, 2, 9, and 10.

The area is serviced by the Canyon Ferry FSA and all parcels with structures with assessed values in excess of \$50 would be assessed a \$100 fee annually for fire protection services. Applicants must obtain a 310 permit from DNRC for any development activities across the creek. A five-year weed management plan is required. A memo from Ron Spoon, FWP indicating that the existing buffer would protect the stream in that area. The applicant has recently conducted floodplain mapping. Staff further recommended that a no-build zone be established from the floodplain or the high-water mark associated with the creek. Staff further recommended that the applicant comply with the Fire Protection Guidelines for Wildland Residential Interface. The subject property is located within seismic zone 3 and the applicant shall conform to Uniform Building Codes. The applicant has indicated he wishes to make a cash payment in lieu of parkland in the estimated amount of \$4,072. Staff recommended approval of the proposed subdivision subject to 18 conditions as outlined in the staff report. The Planning Board expressed concerns about the design and soil constraints on the lots in the southern portion of the property; fire protection improvements and surface water quality within Magpie Creek. The Planning Board supported the recommendation for no build zones and steeply sloped area. The applicant did not agree with proposed condition 12 requiring the installation of a 6,000-gallon storage tank on site, but is willing to negotiate with the fire department and pay a reasonable per lot fee. The applicant questioned the no-access restrictions on lot 10 and indicated he did not think it was necessary. He is willing to designate a driveway approach area located in the eastern portion of the property to prevent development of a non-functioning intersection in that area. Mr. Lay wishes to amend condition 16.o prohibiting chemical applications within 25 feet of surface water to read to approve chemical applications within 25 feet of surface water. Concerns from the public included air quality, disruption of the creek, potential invasion of noxious weeds, and preservation of the creek side corridor; ability of the fire department to maintain mutual aid agreements.

The Planning Board recommended denial of the proposal based on issues dealing with groundwater quality, surface water quality, suitable building sites; and delivery of public services. The applicant submitted a letter in response addressing some of the issues of the Planning Board.

The applicant, Dennis Lay, stated a flood stream survey has been completed and has submitted a drawing outlining a 25-foot offset from the creek and the 100-year floodplain. He stated that a 6,000-gallon storage tank would cost \$13,000. He met with the fire chief to discuss fire protection and no solution has been agreed to at this time,

but discussions will continue. Magpie Creek has a filling station less than 300 feet. He has received approval for a 310 permit. The County Weed Extension Agent has approved a weed plan. The applicant has no problem with the access restrictions on lots 1, 2, and 9, and will construct a designated driveway on lot 10. Mr. Lay distrusted a letter from Susan Stiles indicating the Bureau of Reclamation has ownership of East Shore Drive. The applicant feels the road design allows for good traffic flow to East Shore Drive, the approaches have good visibility, and the property is well utilized.

Jim Taylor. The proposal for on-site systems is do-able.

Craig Byington, President of Millennium Mining Associates, 20 Last Chance Trail, Clancy. Mr. Byington was asked by the applicant to evaluate the catastrophic flood potential in the area of Magpie Gulch. He distributed photographs of the proposed subdivision area. From past history, there is not a high area of activity for water flow and little evidence of catastrophic flooding potential associated with this property.

Josephine Cole stated this proposal is the best use of the land.

Hearing no other public comments, the Chair closed this portion of the hearing.

Dennis Lay stated the retention pond on lot 6 shown on the survey will not be as large as seen on the map. He submitted Mr. Byington's written statement to the Commission.

Commissioner Murray moved that the Commission render a decision Tuesday, April 24 at 9:00 a.m. Commissioner Varone seconded the motion and it carried unanimously.

**Proposed Minor Subdivision, Preliminary Plat to be known as Broadwater Estates.** The proposal is in the W1/2 of Section 28, T10N, R4W, generally located north of Highway 12 West and west of the Broadwater Athletic Club. Jerry Grebenc reported this is the date the Commission set for the staff report and public hearing. The applicant, Steve Yakawich, has requested a postponement of the review period until May 18, but the BoCC did not set a date to review the proposal.

Hearing no public comments, the Chair closed this portion of the hearing. The Commission will hear this proposal at a future public meeting date.

**Request for Extension of Preliminary Plat Approval for the Moore Court, Lot 4A, Minor Subdivision.** Jerry Grebenc reported that the applicant has submitted a request for a one-year extension of his preliminary plat approval. The applicant, Michael Dodge, 3060 Moore Court, East Helena, was present and indicated he was prepared to complete the 250 foot section of the road. Based on the applicant's due diligence Commissioner Murray moved that the Commission grant an extension to April 20, 2002. Commissioner Varone seconded the motion and it carried unanimously.

**Board Appointment – Transportation Coordinating Committee.** Commissioner Varone moved that since only one application was received, the county extend the application process another two weeks and readvertise the vacancy. Commissioner Murray

seconded the motion and it carried unanimously.

Other business.

Resolution of Intent to Create the Augusta RID. Sharon Haugen reported that the Sewer District exclude the sewer lagoon (settling pond) from the resolution for the RID and go forth with the remaining boundaries. The cost of the improvement goes from \$41.87 to \$42.03. Commissioner Murray moved that the county finalize the Augusta RID excluding the settling pond and authorized the Chair to sign the resolution. Commissioner Varone seconded the motion and it carried unanimously.

Seliskar continued. Sharon Haugen recommended that the Commission set a hearing date on Thursday because it appears that Mr. Seliskar's attorney may not be available today.

Lamb Ranchettes. Commissioner Varone moved that this matter be rescheduled on the agenda at a later date. Commissioner Murray seconded the motion and it carried unanimously. By consensus, the Commission discussed the petition presented by the homeowners of Lamb Ranchettes.

Gene Thursk, 3595 Juniper Drive presented a petition signed by the majority of the Lamb Ranchettes opposing any commercial development and existing development in the subdivision.

Debbie Cronin, 3425 Juniper Drive, stated she and her husband Stan are present today under the direction of Deputy County Attorney, K. Paul Stahl and their attorney, Robert Murdo, in proceeding with discussions with the other Lamb Ranchette owners a possible amendment of Special Zoning District 41 in defining what significant traffic is.

Sharon Haugen stated that she briefly meet with the Cronins and attorney Stahl and report back to the Commission Thursday to discuss what the issues are.

There being no other business, the meeting adjourned at 12:31 p.m.