

NOTICE OF PUBLIC MEETING

June 24, 2003

Chair Varone called the meeting to order at 9:00 a.m. Commissioners Murray and Tinsley are in attendance. Others attending all or a portion of the meeting are Ron Alles, Carol Byrnes, Sharon Haugen, Paul Stahl, Terry Webster, Mary Jane Frese, RM Hudnall, Jerry Shephard, Brandi Pierson, Marni Bentley, Dean Retz, Cheryl Green, John Rundquist and Tim Burton.

Pledge of Allegiance. Everyone recited the pledge.

Chair Varone: At the front of the room or somewhere in the audience there is a sign up sheet, an attendance sheet passed around. Would you please be so kind as to sign it. Also there are agendas in the front of the room. Also coming into the room right now is Ron Alles our Chief Administrative Officer.

Water Quality Protection District Renewal Contract with Montana DEQ. (Kathy Moore)

The Commissioners will consider the contract to complete 25 assessments of public water supplies in Lewis and Clark County.

Kathy Moore: Madam Chair, Commissioners. Thank you very much. This is an extension of a contract that we've been working on for about the last six months. It's a cooperative effort between the University of Montana, Helena College of Technology, I forgot UM in here so I should add that this is a division of the University of Montana. We are assessing public water supplies in the Helena area right now. There are approximately 114 of these in the County and we hope eventually to do them all with the use of student interns at the Helena College of Technology. This particular contract modification will add 25 water supplies to a previous contract that this commission approved several months ago.

Chair Varone: Thank you Kathy. Any questions of Kathy? Kathy, a few weeks ago the commission approved a subdivision out in the valley, the name escapes me. I talked to you about it subsequent to that approval and asked if we could make sure that at least one of the wells in that subdivision were monitored. Would this contract help cover that, or is that something that the applicant has to do?

Kathy Moore: This contract will not help monitor that well.

Chair Varone: Okay, Thank you. What's the pleasure of the commission?

Commissioner Tinsley: Madam Chair. I'd like to make a motion that we approve the Water Quality Protection District Renewal Contract with Montana DEQ and authorize the chair to sign.

Commissioner Murray: Second

Chair Varone: All those in favor signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries. Thank you Kathy.

Kathy Moore: Thank you.

Resolution Ordering a Refund of Taxes/Fees/Assessments Paid. (Paul Stahl/Cheryl Green)

The Commissioners will consider the resolution to refund Shirley Fjield \$2776.68.

Cheryl Green: Madam Chair and Commissioners. This is a piece of property that Harold Poulson used to own and I think it borders, is that the Missouri River, borders the Missouri River. Shirley is Harold Poulson's secretary. Harold Poulson sold this property to Montana Power in like '97, he continued to get the tax bills, Harold Poulson did, and Shirley would know the property was sold and so she finally decided that if Montana Power was not going to file their deed to transfer the property she was going to take it in assignment on the property and earn some interest on her money. Then a deed came through from Montana Power to PP&L and the assessors office were taxing PP&L for the property since 1999, but never cancelled the Geo-Code that Shirley had taken the assignment on so there was a double assessment. But there was a survey done by Harold Poulson and PP&L which, well the survey was I think divided into four tracks of property which PP&L bought all four. When the survey was recorded there was like 70 some acres that were removed from the tax rolls because the survey had this many acres, we had assessed Harold Poulson and PP&L this many acres, Department of Revenue was told they work the survey so we did lose 70 some acres from the tax rolls due to this survey. We did discover that the taxes Shirley had paid from '98 on, they were not double assessed for 1998 so I'm not requesting the refund for '98. In 2002 is when the assessors' office caught the double assessment so they did cancel this geo-code under Harold Poulson for 2002. From '99, 2000, 2001 she had taken an assignment on the property. We are at the time not going to give her interest back on that property due to the double assessment from Department of Revenue, and she was also aware, I think you can see from the letter from Harold Poulson's son she had called PP&L and they had filed their deed, but Department of Revenue just had not worked that deed. So with legal counsel and me talking about this, we decided to just give them back the taxes, hold back the interest due to the double assessment. We don't know where that money would come from because no-one is redeeming this property so the County would have to come up with, I think it was about \$800.00 in interest and I guess I don't know where we would take it from to give Shirley back her interest. So we were kind of hoping that, I don't know if they'll end up taking the County to court in the end or, but we feel that it was a DOR error. I guess I'm asking the Commission to give her back just the taxes that she paid on the assignment.

Chair Varone: Thank you Cheryl. Paul?

Paul Stahl: Madam Chair. The reason I am here this morning is this is a with lots of controversy and no matter what we do, if we don't do everything they ask, Shirley Fjield and her representative Mark Poulson, who is the son of Harold Poulson, will not be happy. Let me just elaborate a little bit. The reason I am here is twofold. One, I want to apprise the Commissioners, and I know you're already aware, but I want to remind you that when we check when we have begun to check in Counties where we have situations with lakes and streams and as you know a section has approximately 640 acres in it, a section of land. As we have been checking and we are discovering that in some sections with a lake in it there are 120 acres short of the 640 that nobody is being taxed for. In this particular section there's 75 or 80 acres in the immediate area that just sort of evaporated because of a particular deed being filed, DOR working it, and then it doesn't seem to be that anyone owns the land, but it's in use by somebody. So there's a, so the first thing I want to apprise you of is that we need to begin working figuring out in these sections where the County owns or where there is large bodies of water where that land is. I believe it's probably all under the lake. I believe PP&L or whoever owns those the land under the water are not being correctly assessed. There are hundreds and hundreds of acres short in Lewis and Clark County for that land. This survey that was worked, DOR is under a policy that they have to go by every private survey that has been filed. Often times the private survey does not agree with the BLM survey, but it's DOR's policy that they follow the privately done survey. So we know there's a conflict here with the BLM survey when they sold off the land. A number of years ago we had, when Montana Power began divesting itself of property through sun light development, we had a number of these. Commissioner Murray remembers cause it was way long ago, way before you people.

Chair Varone: In the olden days?

Paul Stahl: In the olden days. Where they would take a piece of land along the lake and then sell it and then claim they had 20 more feet between the property edge and the body of water which they then tried to sell to somebody else. We had major controversy, that's something that's happening here. So I'm here to use this, as

a vehicle, to tell you that number one there's a lot of land that's not being assessed. Number two, once again we pay for the mistakes of Montana Power here, I mean of excuse me not Montana Power they're easy to blame right, of Department of Revenue. They were to deed, they didn't work it timely, people got in and got involved under the statutes where we have to accept money. If we were in fact to pay interest there'd be an \$800.00 amount of money that we never generated that we'd have to send back to this taxpayer because of the mistake of the Department of Revenue and yes, I think that all the government ends up being in the same pot here, but we continue to have some problems and they are only getting worse and I don't blame the workers there because they're terribly under-funded, they don't have enough people. I mean it's all going to hell in a hand basket honestly because of the lack of funding, but that's what people want. We're left to clean up these problems. Shirley Fjield, for her employer because he didn't seem to be too worried, paid the taxes on this because she was afraid it was going to go bad and somebody would take it for tax deed. Then she continued to pay year after year three or four years but in the meantime, DOR which had not worked the deed in the first year or the second year began working the deed, transferred the property so PP&L was paying the double assessment. So we wrestled with this and wrestled with this and our best determination is that she is certainly entitled to a refund of something and in trying to make that determination because the taxes were not paid by anybody in 1998, we think that we can keep her money because we are past that time so she is going to pay for the '98 even though she had no interest in this land at all, we keep her money. She took a risk by paying and taking an assignment was never redeemed. In those years that follow '98, then we PP&L paid it also so there's an automatic double assessment and is reason to give her back her payment, but we have not included her interest here on that money.

Chair Varone: So Paul, if I understand it correctly, what you're asking us to do today is refund her for 1999 moving forward the amounts that she double paid and should the commission do this then you will go back and take a look at this 70 acres that haven't been assessed, determine who owns those, then will you back assess those individuals.

Paul Stahl: We don't, I don't know how we're going to do that. I mean that's part of an on-going discussion here because this is a much bigger player than just what I can do in that regard. We need to sit down and maybe have, we're already having some serious discussions but I'm sure it's going to be necessary to rise up to your level to meet with people because that's only one of the problems here. Understand that Mark Poulson who represents Mrs. Fjield who is now old and sickly isn't going to like this, isn't going to like the fact that he doesn't get all of it plus interest back. So understand that you're what the resolution is here, he isn't going to be happy with. And we'll continue to work on that until we can get you something that's know that that's what we're trying to do.

Chair Varone: So what he's doing is he wants not only this \$2776.68, he also wants the payment for 1998 as well plus interest, is that correct? Any questions of either Cheryl or Paul? Commissioners?

Commissioner Murray: Madam Chair I would move a resolution order to refund of taxes/fees/assessments paid to Shirley Fjield for the years 1999,2000, and 2001 in the amount of \$2776.68 and authorize the chair to sign.

Commissioner Tinsley: Second. Madam Chair the name is misspelled in the resolution according to her application, there is an 'i' after the 'j' .

Chair Varone: On my resolution it's been corrected "F-j-i-e-l-d" it's been corrected on the original.

Commissioner Murray: Good catch though.

Chair Varone: Yeah. All those in favor signify by saying 'I'.

Commissioners: 'I'

Chair Varone: Motion carries. Thank you. Can't say that I look forward to finding out what happens in the future, but Thank you.

Resolution to Create the Augusta Fire Service Area. (Marni Bentley)

The Commissioners will consider creating the fire service area.

Chair Varone: We received an email a few days ago from an individual up in the Augusta area and just this morning he modified that and I just want to make sure that all the commissioners got a copy of that. Marni.

Marni Bentley: Madam Chair, Commissioners. As you're aware a petition was received to create the Augusta Fire

Service Area. Board followed the statutory requirements and passed a resolution of attempt, notice was given, legal ads were submitted to the papers. A public hearing was held in Augusta on June 13th where the Board took testimony and today another public hearing is going to be held. There's a resolution attached to your memo creating a Fire Service Area if that is passed today the Fire Service Area will become effective on August 25th, if insufficient protest is received. Staff does recommend approval of the resolution to create the Augusta Fire Service Area. I can answer any questions?

Chair Varone: Commissioner Murray.

Commissioner Murray: On the assessment chart, there are a number of properties that have no assessment.

Marni Bentley: Those are properties without improvements, but they are in the district so I left them on the list. Only improvements are assessed for fire protection under the fire service area

Commissioner Murray: So, on the resolution, will taxes raise a taxable value from \$1.00 to \$299.00 for a \$25.00 annual fee. That only pertains to some type of structure?

Marni Bentley: Probably a small structure garage or something like that.

Commissioner Murray: Thank you.

Commissioner Tinsley: Madam Chair, Commissioner Murray. Marni, for the benefit of the audience, would you explain the fee structure and the taxable value of improvement? That was a question that came up in Augusta.

Marni Bentley: Okay. The taxable value of an improvement is a what a percentage of the market value that shows on peoples tax bills. What we tried to do was spread out the assessments so different types of structures got assessed a different rate. If you've got a small garage we tried to just assess that small amount, if you have a large house you get the larger assessment.

Chair Varone: So Marni, if I understand it correctly as an example if there was a residential structure that was could be sold for \$100,000.00 but the taxable value was \$75,000.00 the fee structure is based on that \$75,000.00 not the \$100,000.00 that the house could be sold for.

Marni Bentley: That's correct.

Chair Varone: Thank you. Any other questions for Marni before we begin the public hearing. Mam, we're going to be beginning a public hearing than you'll have an opportunity to come forward. Thank you Marni. This is a public hearing. Anyone wishing to speak in support of and opposition to or in general please come forward up to the microphone and for the record, we're recording this, so please state your name and your address.

Mary Jane Frese: Hi. My name is Mary Jane Frese, my address is 5985 Barnett Helena 59602. I don't have overall objection to the fire district however, I do have objection to its proposal the way it's being laid out. We have a cabin; my oldest son has some structures also up at the Diamond Bar X. Our cabin is one mile up a very steep winding road its 20 some miles from Augusta. We knew when we built it that if fire hit there was nothing we could do however, we didn't look at seeing having to pay a \$200.00 assessment annually to support Augusta's fire safety. I mean we don't have a problem with like the \$25.00 something like that joining in and

helping, but our cabins only worth \$42,000.00 and like I said we know if a fire comes we won't even get to a telephone in time to call a fire department let alone have a response of 27 to 30 miles, plus going up a steep mountain road, dirt road for protection so we really are against being assessed the same type of value that Augusta would be assessed.

Chair Varone: Thank you Mam. Just so you know this is a separate fire service area from the Augusta volunteer fire department.

Mary Jane Frese: I'm aware of that, but even at that, we are still almost 30 miles up dirt roads that only 4 wheel Dr. vehicles can get up even in the summertime and there is absolutely no access in the winter time except for walking up on either snow shoes to be assessed the same as houses that fire trucks can get to. I mean, I could understand it if it's an area that a fire truck can get to. We're in an area where you can't get to. We're at the top of one of the mountains above the Diamond Bar X and there's no way a fire truck can get to us and my son's lot is even further away, it's up a different road and it's even more difficult to get to. He's at the end of the road on his or the end of the road on ours and to assess us the same as properties that are worth multi amounts is not fair and it isn't justice so we hope you take that into evaluation.

Chair Varone: Thank you Mam.

Mary Jane Frese: Thank you.

Gary Stewart: My name is Gary Stewart. I'm here to represent Mrs. Barbara Rumford. She has a cabin in the benchmark area and basically we are protesting the same thing as this lady here. Her cabin is accessible only approximately 6 months of the year. It is between the 10 and 11-mile mark on the benchmark road. If you have a cel phone you can't even use it back there, you have to Dr. 10 miles or more out of the mountains in order to use it if in fact it will be able to be used. Otherwise, you have to Dr. all the way into Augusta or possibly stop at the Cobb Ranch. If nobody's there you would not be able to use a phone you would have to go the rest of, it's 25 miles from her cabin to Augusta, in order to get to somebody. By the time they get their stuff together and Dr. the 25 miles back, there surely is not going to be anything left. I am a retired battalion chief from the Great Falls Fire Department. I know what, a little about this. It would be at the minimum 45 minutes before a truck could get there, there would be nothing left. If the fire started to spread up the hill, there would be very little the fire department with their trucks could do because it is steep. Basically the road is up the bottom of the valley and that is about the only place they could go. So, like this lady said here, I think that Mrs. Rumford, she is not sure if she would be paying \$100.00 or \$200.00, you only get to use it 6 months of the year and if you're taxed \$100.00 or \$200.00 this is entirely out of the question, there would be nothing left. The cabin was built before the road even went in and then in approximately 1933 the road went in the rest of the way to Benchmark. They know that if a fire starts, that's just, get out of the way and let it go because there isn't anything you can do. I believe there is fire extinguishers there if you catch it when it's small but if it gets going, you just stand back and that's all you can do. So, we're protesting this. It is not fair to have \$100.00 or \$200.00 when you only have 6 months access to the place and there's not going to be anything left by the time the fire department does get there. Thank you.

Chair Varone: Thank you Mr. Stewart. Anyone else wishing to speak today. For the second time. The third time. This closes the public hearing. Commissioners.

Commissioner Murray: Madam Chair, I move the resolution to create the Augusta Fire Service Area and authorize the chair to sign.

Commissioner Tinsley: Second

Chair Varone: Discussion. I am going to vote for this and I'm going to explain a little bit why. I worked for the Office of the State Fire Marshall for 17 years and I not only understand the importance of fire protection but also the liability of folks who own cabins. Should a fire start in a cabin and then it spread to other cabins or the forest, there's a liability factor. So any kind of fire protection that is available is extremely important in my opinion. Not only that, my husband and I own a cabin out at Wolf Creek and the Wolf Creek area. Our

cabin doesn't have a road to it; you can only get to it by water. Doesn't have a cel phone, we can only use it a maximum of 6 months a year. I worked very hard with the Wolf Creek Volunteer Fire Department to establish a fire service area that included more than 200 properties that can only be reached by water and I'll be honest with you, I don't care what we have to pay because not only is it important to protect my property, even if that property burns to the ground, but if a fire occurs as a result of something that happened on my property and it's close to other properties, other residents, the forest then I have liability. But if I have fire service protection, even if it takes an hour to get there or an hour and a half to get there, our insurance company is going to look favorably upon that and I've also been talking to the Volunteer Fire Department about increasing our fees so they can have, be better prepared should they occur on our property. Any discussion, Commissioner Tinsley.

Commissioner Tinsley: Madam Chair, Commissioner Murray. Marni, if you would unless you have them right now, after the meeting would you get with those two individuals that were here today and show them their fee, their proposed fees on this, I couldn't find them I was trying to thumb through it fairly quickly.

Marni Bentley: I will do that. I looked up the Rumford and that assessment would be \$50.00 a year. I need to look up the other, but I will talk to them after the meeting.

Commissioner Tinsley: Thank you.

Chair Varone: Commissioner Murray.

Commissioner Murray: Madam Chair. We are well aware that the Augusta Fire Department and certainly the Lewis and Clark County Fire Department, which takes at least an hour to respond and does now respond to cabin fires in the Diamond Bar X area, that you've enjoyed this luxury for years for free. And now to correct that problem, Lewis and Clark County Fire Department is also assessing areas when there is a fire in the rural Augusta area. We call mutual aid and have the Augusta fire Department respond and generally they knock it down before we get there. Certainly we will not save your cabin, we will however save the forest fire that your fire creates and that you are personally liable for so we will save you money through this action.

Chair Varone: I'm sorry Mam the public hearing is over. Mam, Thank you. Commissioner Murray reminded me that you are out of order and there is a motion pending, I apologize. Any further discussion before we vote? All those in favor signify by saying 'I'.

Commissioners: 'I'

Chair Varone: Motion carries. Mam, now that the motion is over if you'd like to come forward.

Mary Jane Frese: I would like to ask, since he brought this up, he obviously has information that we're not apprised of and I'd like to know the answer.

Commissioner Murray: Mam, I didn't hear the question.

Mary Jane Frese: The question was, you brought up the fact that we have received fire protection from Augusta for free for many years. I would like to know how many times the Augusta fire department has approached the Diamond Bar X ranch?

Commissioner Murray: Madam Chair, Mam. I'm familiar with one occasion.

Mary Jane Frese: Which occasion?

Commissioner Murray: One year ago, and I would have to look it up. If you would give Marni your name and address, I'll look up the situation where they bailed us out. We stayed for 2 days fighting a cabin fire in your area.

Mary Jane Frese: In the Diamond Bar X area?

Commissioner Murray: Yes Mam. Two years ago, I believe.

Mary Jane Frese: That doesn't sound proper. I've been up there many

Commissioner Murray: Well, I'm sorry it doesn't sound proper. I'm not going to debate it with you.

Mary Jane Frese: No, I understand

Commissioner Murray: Also, last year, during winter during a wild fire at one of the lakes in Teton County, the Augusta Fire Department responded, we provided back up through the County Fire Department.

Mary Jane Frese: Well, I would like a specific instance

Commissioner Murray: I will get you the specific instance for you. If you would give Marni your name and address I will get it for you and I'm not going to debate it with you, but I'll get it for you.

Mary Jane Frese: Thank you.

Chair Varone: Sir

Gary Stewart: Mrs. Rumford lives on the Missouri River in the hardy area and she has lived there for over 20 years. They pay \$45.00 a year to the Deerborn Fire District which is much closer. Now she's being assessed \$100.00 in the benchmark area. It seems to me, at least \$100.00 maybe \$200.00, and this is her permanent residence on the river only \$45.00 and yet this is somewhere else that the protection is just not there and she being assessed at least twice and maybe four times as much.

Chair Varone: Sir, The volunteer fire departments have a Board of Trustees and they set their own schedules. Once this is complete, we've been working with several of the volunteer fire departments in the volunteer fire service areas to take on those properties that are closer to them and as a result the fees, fee changes have been coming for us to take a look at and I expect that to continue to happen to pay the appropriate amount. She's lucky that she's only paying \$40.00, I'd expect it will, or \$45.00, it'll increase.

Commissioner Tinsley: Madam Chair, Commissioner Murray. Mr. Stewart, I believe that Marni said that Mrs. Rumford will be paying \$50.00 under this resolution. She's out in the hallway talking with Mrs. Frese, you might want to check with her before you leave.

Gary Stewart: Okay.

Commissioner Tinsley: I don't think it's a hundred though.

Gary Stewart: All right. From the fee that the, the schedule from the paper that came from the County, she thought it was, she wasn't exactly sure where she stood.

Commissioner Tinsley: There's Marni right there.

Chair Varone: Marni, did you not say Mrs. Rumsford was, her assessment would be \$50.00?

Gary Stewart: Okay, we were figuring a hundred. Thank you.

Chair Varone: Before we move forward with the next item on the agenda, we will take a 5-minute break.

Chair Varone: We'll continue with the public hearing if everyone would like to take their seats please.

Proposed Subdivision, Summary Review to be Known as Hoff Minor G3-2, Lot 5 Amended. (Applicant, Terry Webster) (Frank Rives)

The Commissioners will consider creating a five-lot subdivision from Lot 5 of Hoff Minor, Tract G3-2.

The proposal is located in the S1/2 of Section 32, T11N, R2W; generally located east of Lake Helena Dr. and adjacent to Emerald Ridge Loop Rd.

Chair Varone: The applicant is Terry Webster and we did receive, I believe we received an email, a letter that I'd like to include in the, for the record from Robert and Susan Rothingham(?) and Becky Heilman. Frank, is Mr. Webster here today? Right here as signee. Mr. Webster.

Frank Rives: Yes he is.

Chair Varone: Mr. Webster, have you had an opportunity to look at the packet of information that's been provided? If so, you have any comments before we begin? What's going to happen is you can make a few comments now, Frank will make a presentation on your application, we'll hold a public hearing and then you'll have an opportunity to make a statement at the beginning and at the end of the public hearing.

Terry Webster: Yes, then I guess I'm ready to proceed then right now.

Chair Varone: All right. Thank you Sir.

Terry Webster: Thank you.

Chair Varone: Frank.

Frank Rives: Good Morning. This is a vicinity map showing the approximate location of the property. It's located

on Emerald Ridge Loop Rd. and presently the property is also accessed by a roughed-in internal access road which goes along the southern border of the property. This is a sight plan, the applicant is proposing to create 5 lots from lot 5 of Hoff Minor Subdivision G3-2, so this is an amended plat. One of the things to look at here is that the lots exceed 3, the 1 to 3 width length ratio. In this case it's 123.77. The applicant has requested a variance on the lot with ratio. This next group of slides is showing the area of the subdivision. This is what would be in the area of lot 5A, you'll see it's pretty much devoid of vegetation on the upland portion there is vegetation in the coulee and the lots actually extend from the roughed-in access road down past the coulee and actually up a little bit on the other side so, almost, the coulee is almost entirely part of the subdivision. There are some portions of the coulee which are in the, in lots 1 thru 4 of lot G3-2, but just a little bit. This is a shot of the property from Emerald Ridge Loop Rd., as you can see once again not a lot of vegetation. There are several old soil pits that were dug sometime previous. This is again, this would be about the center of lot 5, that would be lot 3, where there is a house created. This is the, this is the property looking south across the coulee and that is the coulee. This is Emerald Ridge Loop Rd., this is the eastern end of the coulee, lots 5A, proposed lot 5A would be in that area. Alrighty. As I said the applicant proposes to create a 5-lot subdivision from lot 5 of Hoff Minor tract G3-2 which was final platted in March of 2003. Existing 11.981-acre tract would be divided into 5 lots which would range from 2.32 to 2.42 acres. Each lot would be developed with a single family dwelling which would be served by an individual well, individual wastewater treatment system and utilities access would be obtained from an internal access road which connects onto Emerald Ridge Loop Rd. which then would connect to Lake Helena Dr. A work construction would be required to bring this internal access road to meet County standards and provide legal and physical access. As I mentioned, a variance has been requested for the length width ratio. The subject property is presently undeveloped, it has been tilled and sprayed for weed control and is largely bare ground in the uplands. There's a substantial coulee which runs east-west in the northern third of the property. The coulee is moderately steeply sloped and the coulee is vegetated with various native grasses, pincushion and prickly pear cactus and juniper bushes and the coulee provides forage and shelter during the winter weather for deer and every time I go out to this property, I always see lots of deer, it's always a nice visit. The soil-mapping unit is, there are two, Weingart- Assiniboine

Complex and Crago-Mussellshell Gravelly Loam. Neither, I should say Weingart-Assinniboine complex is identified as farmland of local importance, however Crago-Mussellshell Gravelly Loam is not and is located in the coulees it slopes of lot 5 and there are no agricultural uses located near the proposed subdivision. There are no irrigations facilities or agricultural water rights or cultural easements identified with the property. That's just a photo of the coulees you've seen a few of those already. The applicant is of course proposing to have onsite wastewater treatment systems, our Weingart- Assinniboine Complex has been identified as having severe limitations for the placement of onsite wastewater treatment systems due to shallow bedrock and slow percolation rates, Crago-Mussellshell Gravelly Loam has severe limitations due to steep slopes. As has been mentioned, there is a substantial coulee which is located in the northern portion, the steep slopes on the northern portion of lot 5 would restrict the placement of onsite wastewater treatment systems to the southern portion of lot 5 where a suitable drain site, drain field sites are possible and as I mentioned there are several old test pits that have been dug on the property. I believe I saw four. The soil-mapping units identified on the subject property all have moderately low erosion potential and there's the greatest risk is to wind erosion of course since the property is largely un-vegetated, that is a substantial risk. However, if wind erosion can be checked by the placement of vegetation on the property and preservation of any natural vegetation which is located on the property. The sole conservation district has will not require an erosion and sediment control plan. Noxious weeds are identified on the property and implementation of a Five-Year Weed Management plan is required. There is an existing Five-Year Weed Management plan for Hoff Minor G3-2, I spoke with Al Linhoff(?) from the weed district and he said that they would need a separate Five- Year Weed Management plan for this subdivision, so they will require it. Just to mention the internal access road of course would have to be constructed to County road design standards which would require a 24-foot roof and would terminate in a standard cul-de-sac. This would insure restricted access for the public and for emergency service providers. This is a photograph of the internal access road, which is present, this is looking towards Elk Ridge Loop Rd., I'm probably at that point standing about half way up the property and the truck was parked pretty close to the junction of Emerald Ridge Loop Rd. This is Emerald Ridge Loop Rd. looking north. Wildlife, which would be found on the property, might be deer, antelope, birds and several small animals. Due to much of the land being stripped of vegetation, wildlife habitat for the proposed subdivision is minimal with the exception of the coulee where wildlife can find forage and shelter and when I was doing my site visit, lo and behold I saw several deer - there's one looking at me and there's, can't see them to well but there's four standing on the other side of the coulee. They were as surprised to see me, as I was to see them. In regards to effects on Public Health and Safety there's no floodplain identified on the subject property. Because of the coulee that's present in the northern half, development of the steep slopes should be prohibited. Potential for ground water contamination does exist due to the severe limitations for placing of onsite wastewater treatment systems due to shallow depth to ground water, I mean shallow depth to bedrock, steep slopes, and slow percolation rates which were identified on the property. These of course can be mitigated by the proper installation, design and maintenance of onsite wastewater treatment systems. There are the usual cautions for potential for radon exposure and the proposed property is located within a half a mile of the Spokane Bench Fault and a mile northeast of the Spokane Hills Fault. To reiterate as far as the subdivision regulations, the applicant is proposing to create lots which exceed 3 to 1 ratio which is spelled out in section 10A6F of the County subdivision regulations, the proposed lots would be 3.77 to 1 lot ratio and a variance is being requested by the applicant. Because of the importance of preserving the coulees natural drainage as well as values in wildlife in forage and shelter, this drainage should be maintained and preserved in a drainage easement. Staff is recommending approval of the proposed subdivision, Hoff Minor Track G3-2 Lot 5 amended subject to the findings of the eleven conditions which are contained in the staff report. Now I'm available for any questions.

Chair Varone: Thank you Frank. I have a couple of questions. On page 8, condition of approval #4 it says 'a fire protection plan shall be submitted to the Lakeside Volunteer Fire Department for review and approval'. If you turn back to page 5 under fire protection it says 'each lot would be assessed a tax', I believe that should be a fee, 'for service provision'. Could you clarify what you meant by that? I didn't notice that Lakeside responded to your request for comments, so we need to make sure that what we have in the conditions of approval are accurate.

Frank Rives: Chairman, Madam Chair, Commissioner Tinsley, Commissioner Murray. I believe that Lakeside Fire District, or rather the Fire Department did respond late, however, I was not able to locate the file this morning so I can't answer that question at this time. However, in the past subdivisions in that vicinity they

have requested a \$200.00 per lot fee. I would assume that is what they're asking, but

Chair Varone: Would you clarify that for us and get us information before we make our decision.

Frank Rives: Certainly.

Chair Varone: and then just one other item. On page 5 you indicated an air quality that there were occasional odors from the landfill. I would like to add a condition of approval that provides notification of the noxious odors if you would put something together for us to look at for consideration when we make our decision, just if you'd just come up with the language for us. I believe it's important for to include it in the conditions of approval. Thank you. Commissioner Tinsley.

Commissioner Tinsley: Madam Chair, Commissioner Murray. Mr. Rives, on page 4 under 'other' which is under 'solid waste disposal' there is a statement that says "When Hoff Minor, Tract G3-2 was reviewed as a minor subdivision, staff received an e-mail from Will Selser, of the Scratch gravel District, which stated that development of the area immediately adjacent to the landfill would result in increased operational expenses, which may be borne by the residents of the solid waste district in the form of higher disposal rates", did he indicate, I haven't looked at his email, but I am assuming this is just verbatim, did he indicate the reason or the potential reasons for the increased, potential increased operational expenses.

Frank Rives: Madam Chair, Commissioner Tinsley, Commissioner Murray. No, he did not specify, he did not elaborate on that. I have attempted to get a clarification from him on whether or not, to explain this a little bit more, but Mr. Selser, I haven't gotten a response from him at this time.

Commissioner Tinsley: Okay, Thank you. Just let us know when you get it, thanks.

Chair Varone: Any other questions of Frank before we begin? Mr. Webster you have an opportunity to speak once again before we start the public hearing. Do you have any comments that you'd like to share with us before we begin?

Terry Webster: Maybe a couple, if you don't mind. Frank could you, there was a picture there

Chair Varone: Would you please speak into, we're recording this so we need to have you speak into the microphone.

Terry Webster: My name is Terry Webster and I'm proposing the subdivision. Frank could you turn back to that picture that had the topography.

Frank Rives: The air photo?

Terry Webster: Yeah. I just wanted to address a few things on the, there was some concerns about the onsite septic because of the soil mapping that was done out there. You know, those soil maps are really pretty general and as you can see the 5 lots are to the south of the coulee, here is the coulee and these lots are to the south. Now, we wouldn't build any, the soil they're talking about on the steep slopes are down here that are unacceptable for, or could be, and we will not build any drain fields on that portion of the land and the other soils are up in here where there would be septic systems and I've been out to this site on several occasions and there is no bedrock exposed anywhere down in the coulee and as I'm aware we could drill the well over in this area where we got our data and it was pretty, as I recall over 20 feet to bedrock and the soil pits that have already been done on the property, there's a, Mr. Hoff extricated a bunch of dirt out in here for his golf course, so we're down a good 10 feet, and you know we don't encounter any bedrock. The, of course before the thing is approved, the final approval will depend on Frank and the Health department people going out and checking out those test pits and things making sure those onsite septic would be acceptable. The other thing I believe, the lot the reason we asked for the variance is because you can see most of the lots or a third of the lots are in this coulee area, which we were thinking of putting in as a common area, but what we intend to do is still have that as a common area we wouldn't allow any fences, the covenant would not allow any horses in here so the deer will still be able to roam up and down this coulee, and the actual variance that said 3.7 to 1 it's

actually 3.3 to 1. That variance instead of 3 to 1 is actually 3.3 but the majority of the land as you can see 1/3 of it is not going to be built on or anything so in reality the lots are about 2 to 1 and I guess that's about all I have to say at this time unless you have any questions?

Chair Varone: Thank you Sir, any questions before we begin.

Frank Rives: I just have one comment about the ratio and that when Mr. Webster turned in his application it didn't mention 1 to 3.3. But, then when I was doing my math, I found there appeared to be some distances missing - that the length on his site plan didn't match the plat for Hoff Minor G3-2 that there was, I'm trying to remember, somewhere in the area of 30-40 feet was missing, so I, so when I did the math that is what it came out for me, it was rather it was 3.77 so, irregardless it's still, there's still a need for a variance there.

Chair Varone: Thank you Frank.

Terry Webster: Yeah and thank you Frank, more land that's good. I can use it, but we will do the final plat, the survey, we're planning on doing that this week, but you know we have to wait for this to find out and then we'll get that straightened out whatever it is. Thanks.

Chair Varone: Thank you Sir. This is a public hearing. Anyone wishing to speak in support of and opposition to or in general please come forward. For the second time. The third time. This closes the public hearing. Sir, you do have an opportunity to close as well, I don't know if you have anything else to say, but you do have an opportunity if you wish.

Terry Webster: I just, I just have that same question that you had as far as and I guess Frank will be able to find that out, why the rates would be raised, I don't know. I know that there are those 4 houses on the other side and then there's houses all down below on the other side of that road, so I don't know where that would extend to as being in vicinity of the landfill as to how much it would cost you more. Does that

Chair Varone: Commissioner Tinsley.

Commissioner Tinsley: I'm very new here and I'm learning a lot about land fills everyday or every week. I suspect that it will have to do with how they operate at the landfill so that they don't impinge in your area. I don't know what it is but they may feel they have to do something different. I'm not proposing to speak for him, that's why I ask specifically, but it may have to do with their method of operation so they don't impinge on your residence daily living. I don't know. We'll find out I guess.

Chair Varone: Commissioner Murray, did you have something you wanted to ad?

Commissioner Murray: Part of the cost is due to the fencing and it's also going to require they relocate the compost pile or compost operation that we have at the landfill which creates some odor, not a lot, but those are the concerns that I believe Will is going to raise and elaborate on.

Commissioner Tinsley: Madam Chair, Commissioner Murray. I will say this, that's one of the nicest solid waste disposal areas I've ever been to. I took a tour of it and they have an incredible operation and as you know we all have to put our trash somewhere and the way he has that operation running is phenomenal.

Chair Varone: Thank you. What's the pleasure of the commission?

Commissioner Murray: Madam Chair, I think we need to negotiate some dates on this. I'm going to be out of town Thursday, and I believe you're out of town the following Tuesday.

Chair Varone: The following week.

Commissioner Murray: So, I'm content that if the two of you want to render a decision Thursday, I won't be here for it, or we can render a decision since questions were asked of staff either the first or third, or we can ask the applicant to extend the statutory deadline through the 8th of July which is the Tuesday after.

Chair Varone: I will be here on the 8th. Whatever's the pleasure of the commission?

Commissioner Tinsley: Commissioner Murray if you're content with us doing it on Thursday, I would like to see what Will has to say and I'd like to go out and take a look at the site. Pending the outcome of that, Thursdays okay, if it's okay with you.

Chair Varone: Thursday works for me.

Commissioner Murray: I'm content with that, but I'm not sure two days gives you enough time to get all that information.

Commissioner Tinsley: I'm not either.

Chair Varone: I think it'll be fine.

Commissioner Tinsley: Can you get that information from Will?

Frank Rives: Madam Chair, Commissioners. I believe I can speak for Will because he has brought this up in the past and what it relates too is as the residential development gets closer to the landfill site as we expand those operational capacities there, there's pressure from the general public to move the landfill operation to another location. He's speaking generally in his comments here that if you'll recall a couple years ago we purchased some ground close to the landfill to buffer pressure. I don't know if that answers your question, but I know that is what Will is referring to.

Chair Varone: Commissioner Tinsley.

Commissioner Tinsley: That might be the case to, that sounds a lot more reasonable. Madam Chair, Commissioner Murray, Frank. I would be interested in exploring the possibility starting with this one and including maybe another condition of approval similar to our road maintenance and water agreements and things like that, that makes a waiver of right to protest once we began the expansion of the landfill. We've already purchased the land and at some point we are going to have to start expanding and if we can maybe include a condition of approval that includes a waiver of right to protest. I don't know if that's something we can do or not, but I just kind of thought of that as we were sitting here as development starts occurring around the landfill. So, it's food for thought I guess.

Chair Varone: So, Thursday?

Commissioner Tinsley: Madam Chair, I make a motion that we render a final decision on the proposed subdivision soon to be known as Hoff Minor G3-2 lot 5 amended on Thursday.

Commissioner Murray: Second.

Chair Varone: All those in favor signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries. I need to apologize to the City because when we came back from break, I was suppose to move item 7 up to being considered next. Do you think that we could do that now if we took a quick break? Are you ready? If we could move to item 7 (end of tape)

Joint Resolution for the Creation of SID #418 (McHugh Dr.). (cont. from 6/19/03) (John Rundquist)
The Commissioners will consider the resolution.

Chair Varone: Why don't you run and get John. So we'll take a 5-minute break. We'll reconvene, and again now that John and Tim are here also I'd like to apologize for not making you first when we reconvened before. Commissioner Murray asked me to move you up, I said I would and by the time I got back I had a senior moment. I apologize.

John Rundquist: Thank you Madam Chair and Commissioners. We have considerable property owner interest on McHugh Dr. north of Custer Ave for the creation of a Special Improvement District to reconstruct McHugh Dr. to minor arterial standards. I have an exhibit that I'd like to pass out to you if I may. It includes a map of the SID area and a typical section of what the roadway would look like. So, just to describe the location a little bit, McHugh Dr., the City limits, northern City limits of Helena cross McHugh Dr. about a half-mile north of Custer. But then the City limit boundary actually is the west right of way line of McHugh Avenue down close to Custer Ave. before it turns into the City limits again. The creation of an SID that straddles City/County property or boundaries requires a special action under State law, specifically the law requires that a joint resolution between the City and a County be executed to give the County an opportunity to support the creation of the SID. We can't move ahead with the SID unless we have a joint resolution that enables the City to cross the boundaries in setting up this SID jurisdiction. McHugh Dr. is an area of considerable commercial development at this point in time, and again, there's a lot of property owner interest on both sides of McHugh Dr. just based on the commercial development that's happening and the need for an arterial street to go up and down McHugh, to handle the traffic and serve those commercial properties. We hired Steeley engineering to do some very preliminary work relative to the SID and also to have contact with all the property owners relative to their needs and concerns regarding the creation of an SID and one of the outcomes of that is the development of a typical section that we think would work for an arterial road and that's one of the attachments that you have in front of you. We're looking at a 36 foot paved section with a standard curb on both sides. On the east side of the road we would carry the McHugh ditch line northward on the east side of the road and on the far east side of the right-away we would put in a bicycle path to carry that north to the City limits. Then on the west side of the road a standard boulevard 5-foot wide sidewalk. There's a huge amount of right-away to work with there for some reason there's 100 feet of right-away was granted at some time in the past and so there's really quite a substantial area to work, to put all this in, and it lends itself to some real opportunities there for a nice looking roadway with quite a bit of space between pedestrian and bicycle ways and the travel ways themselves so it should be an asset to the area out there relative to property values and again we have the large majority of property owners that are very interested in seeing this happen. And with that, we would request that the County Commissioners approve a joint resolution of intent to create this Special Improvement District for the reconstruction of McHugh Dr.

Chair Varone: Thank you John. Any questions of John? Commissioner Murray.

Commissioner Murray: Mr. Rundquist, when do you plan on advertising starting construction.

John Rundquist: Well if we're successful in doing the SID and it's a little bit more involved setting up an SID where not just the resolution of intention is in important here, but when we go forward with the SID we need to really gauge property owner interest and have that nailed down because by state law a 40% petition of those on the County side can kill the SID. So a very small portion of the properties could kill the SID altogether. So, a little bit of a balancing act there making sure that we've got all the interest met along McHugh so that we maintain at least 40% on, at least 60% I mean of favorability on the County side. We have 100% on the City side already so we'll have well over the standard requirement of 50% public or 50% in favor to make this work. What, can I ask what your question was again, I kind of rambled on there sorry.

Commissioner Murray: Madam Chair, Commissioner Tinsley. I'm going to repeat the question. It's a simple question, when do you hope to start construction?

John Rundquist: Right. Well all that background being said, what our hope is, is that create the SID starting in July and begin design this fall, we'll have to go through consultant selection and the standard process there and then let the project bid for the next construction season in 2004.

Commissioner Murray: Madam Chair, Commissioner Tinsley, Mr. Rundquist. We're advised that this road bid

isn't the greatest that you may wind up tearing out the entire road bid as you're no doubt aware. The reason for my question is what I would hope is the County would propose an RID going at least to Mill Rd. which is the east-west connector ideally going all the way to Sierra and hopefully for purposes of construction linking the two bids together to get better pricing for our residents, but we're aware that we need to redo the road all the way to Sierra if possible.

Chair Varone: Commissioner Murray, if I may respond to that. Yesterday there was a meeting scheduled with Tim and John, Ron and Sharon were involved and there was considerable discussion about that and there was a general agreement that McHugh as an arterial road will need to be reconstructed and there is going to be some serious discussions among staff and any of the Commission that would like to participate on both sides about the best way to proceed with that, whether it's a bond, whether it's an area wide RID, or whatever, but the result of the meeting was that there do need to be discussions between the City and the County and those are going to begin, just to be seriously discussed. If we could get it done jointly that would be super. What's the pleasure of the commission?

Commissioner Murray: Madam Chair, I have a question. Since this is a resolution of intent, is a public hearing required?

(Female) Madam Chair, Commissioners. We are going by City statutes so unfortunately staffs not as familiar with the process but I understand Mr. Burton or Mr. Rundquist does know the process and procedure so I'll direct that question, I'll ask them to answer that question.

Tim Burton: Madam Chair, Commissioners. I think in this instance it certainly wouldn't hurt to open it up to a public hearing even though one may not be required.

Chair Varone: We can do that. Thank you John, John.

John Rundquist: I was just going to say this, the action isn't the resolution of intention, it's an actual resolution. The resolution of intention comes into play when we actually form the SID through the City process. That process consists of going to the City Commission with resolution of intention and then there's a 30-day time period in which we would receive protest to the SID and then we would actually hold a City Commission meeting, public hearing and hopefully the commission would execute the resolution at that time. This is just a resolution for a joint resolution that agrees that the City can go ahead and proceed with creating the SID.

Chair Varone: Mr. Burton, you're half up half down. Did you have something you wanted to say?

Commissioner Murray: Madam Chair, while Mr. Burtons coming has the County or the City notified the 6 county property owners involved in this?

Tim Burton: Madam Chair, members of the Commission. We've notified all the affected property owners. Both City and County and what this resolution does is essentially coordinates a dual process and essentially what the action would be if you approve it is to allow is to allow the process to take place under one government, the City Commission and the statutory requirements under that body. So really, it's a coordinating resolution for a dual process.

Chair Varone: Thank you Mr. Burton. Commissioner Tinsley, at the pleasure of the commission should we hold a public hearing. This is a public hearing, anyone wishing to speak in support of and opposition to or in general please come forward now and for the record state your name and address. For the second time. The third time. This closes the public hearing.

Chair Tinsley: Madam Chair, I move approval of the joint resolution for the creation of SID #418, McHugh Dr. and authorize the chair to sign.

Commissioner Murray: Second.

Chair Varone: All those in favor signify by saying 'I'

Commissioners: "I"

Chair Varone: Motion carries. Thank you.

Proposed Minor Subdivision, Preliminary Plat to be Known as Big Valley, Lot 17. (Applicant, David and Valerie Blade) (Jerry Grebenc)

The Commissioners will consider creating five lots, each for one single-family dwelling. The proposal is in the E1/2 of Section 7, T11N, R3W; located north of and adjacent to Valley View Rd. and approximately 700 feet east of Applegate Dr.

Chair Varone: Are the applicants in the audience today? Mr. Retz, you're their representative? Would you please come forward Sir. Mr. Retz, have you had an opportunity to read the information that was provided and do you have any comments before we begin.

Dean Retz: No, I did meet with Mr. And Mrs. Blade, they are out of state this week but we are prepared to go forward. Thank you.

Chair Varone: Thank you Sir. Jerry Grebenc.

Jerry Grebenc: Madam Chair, Commissioners. The proposed subdivision is located adjacent to Valley View Rd. just east of Applegate. Here's a close up of the photo. You can see the intersection of Valley View Rd. and Hoge Dr. Applegate is just to the east of the adjacent western properties. The applicants are proposing 5 lots, for single-family residences. The 5 lots would be divided equally into 1.9 acres lots. The property's currently undeveloped, has slopes to the south of 2 to 4 percent and the vegetation consists primarily of sagebrush, grass and lots of prickly pear. This is the preliminary plat; you can see the design the applicants put together with the internal access road. This is a view standing, if your standing on Valley View Rd. looking north, you're looking up through the property towards Star Rd. and the North hills. This is on the property out in the middle looking to the southeast towards Lake Helena and Spokane Hills and the Big Belts and this is a view on the property to the southwest looking at the scratch gravels and the divide. As far as effects on agriculture, there is one soil identified on the property as being prime if irrigated, the property has been used for livestock in the past but it doesn't appear that it's been used much recently. Adjacent properties to the west are used for horse pastures, a small ranchette type operations. There are no irrigation waters or facilities on the property. Due to the lack of irrigation water and small lots sizes, staff has recommended that the keeping of livestock be prohibited and I believe Mr. Retz is going to speak to that when he makes his presentation. As far as sanitary sewer, individual onsite wastewater treatment systems are proposed. Soils do have slight to severe constraints for those systems and that's primarily due to poor filtration capabilities. There is adequate vertical and lateral separation from ground water and DEQ and Health approvals would be necessary to mitigate any of the identified problems. As far as water supply, it would be onsite wells not shared onsite wells, wells are completed in a bedrock aquifer. Wells range in depth from 62 to 370 feet with yields of anywhere from 1 to 150 gallons per minute and as you know the property is located in the North Hills controlled ground water study and the applicants would need to complete a 24 hour pump test for the Department of Environmental Quality and DNRC to show that there is adequate water for domestic use. As far as streets and access the legal and physical access to the property would be from a short internal access road with an approach on to Valley View Rd. All those roads, that road would need to meet County standards including a cul-de-sac. An approach permit from the County would be necessary and the applicants are proposing to extend that access easement to the northern property line. The Blades do own the northern property that's adjacent and the extension of that easement would facilitate the development of that lot and additionally it would facilitate a through access and I'll go back to the aerial photo, I should have included that. They're proposing an easement all the way to the northern property line, the Blades do own this lot and if they do sub-divide it or somebody else does sub-divide it it would allow for a connection between Star Rd and Hoge Dr. A little bit of discussion on Hoge Dr., Staff looked at the lot and the fact that Hoge Dr. does

intersect with Valley View Rd. and you think logically it would make sense to put a 4-way intersection there and that would be ideal, unfortunately all these lots were divided without a whole lot of thought for future development and while you could put that intersection in and extension from Star Rd. down to Hoge Dr. you'd leave a pretty narrow strip of land and the applicants are hoping to do equally divided lots. It would make for about 120-foot wide lot if you did do a 4-way intersection. So staff looked at that pretty seriously and did discuss it with the applicants, in the end the proposed intersection that the applicants came up with over here does meet our separation requirements, and what I mean by separation requirements is that for any local road you have to have at least 125 feet between intersections and it does meet that and while it's not the perfect situation, eventually it would probably allow for a through road between Star and Valley View Dr. at least a little bit of an integrated road network. This is a view standing on Valley View Rd. adjacent to the property looking to the west towards Applegate to give the commission an idea of what Valley View looks like and then the bottom photo is just looking the other direction to the east down Valley View Rd. As far as Fire Protection goes, the property is in the West Valley Fire Department, it's approximately $\frac{3}{4}$ of a mile to the nearest station, staff report is incorrect it indicates I believe its 3 miles, its only $\frac{3}{4}$ of a mile. The West Valley Fire Department has recommended \$200.00 per newly created lots, so that would be 4 new lots and that the applicants a fuel modification plan which should be reviewed and approved by the fire department and you should have documentation in the staff report from the fire department. As far as the natural environment, the property is in the groundwater control area and the pump test would need to be conducted. Any approval of the wells and wastewater will be contingent upon that. There were no noxious weeds identified on the property but nonetheless the Five-Year Weed Management Plan would need to be submitted. The property is in the air quality district and you'd have cumulative impacts primarily from additional vehicle traffic on gravel roads and probably on the use of wood burning stoves. As far as wildlife and habitat, primarily small Mammals and avian species. The properties surrounding it are pretty well developed, you don't generally see a lot of big game in that area and while the property does provide habitat it hasn't been identified as critical. As far as Public Health and Safety, the North hills was used for military training in the 40's and the 50's and we generally do our standard notification of the potential for unexploded ordinances. The commissioners may recall that, I believe it was the Department of Defense, the Army did a presentation about 4 or 5 months ago on that very thing and we've got maps and what not from the Department of Defense on that. There is as usual the potential for elevated levels of radon gas and an earthquake fault is located approximately a mile and a half to the northeast of the property. With regards to drainage, due to the need for road construction a drainage plan would need to be submitted to the County for review and approval and with that, staff does recommend approval subject to 14 conditions. Staff report includes 15 conditions, but condition of approval #12 should be deleted. That pertained to a different subdivision. It talks about the existing cable aerial for cable television and there is none in this area and that should have been deleted before the staff report was sent out. So with that, staff would answer any questions the Commissioners might have.

Chair Varone: Commissioners have any questions of staff. Thank you Jerry. Mr. Retz this is your opportunity to come forward and provide additional information or comment.

Dean Retz: Thank you Madam Chairman, Commissioner Murray and Tinsley. My name is Dean Retz, I reside at 1430 Shirley Rd. I'm a licensed real estate broker, State of Montana and I've been doing subdivision and planning since 1995. As was stated earlier, Mr. and Mrs. Blade are out of state something was planned back in January and we did meet three times on this so they are well aware of what is transpiring. I'd mention one thing briefly, they purchased this land in 1986 for an investment for a childrens' college fund and there has been nothing on there since 1986. What I would like to, and my procedure, is briefly review this staff report and review the recommended conditions of approval and answer any questions the Commission might have. I do want to mention at the pre-app conference, which I've stated before I'm a big believer in and I think gets better all the time we talked about the road issue how it had to be certified by an engineer, we talked about non-deg in your report, in your application you have a copy of a nondegreagation analysis done by Jim Taylor, P.E. We talked about this being in a ground water control study area effective October 11th, 2002. Pat Favor, Hydro geologist has talked to the DEQ about a procedure should this subdivision be approved. We did talk at the pre-app about large animals, quite frankly I actually had put it in the land owner covenences the Blades requested that I delete that as a neighbor is a co-worker and because their horses are on there they stated they would like to see that not put in there. I did talk to Jerry Grebenc on this, again talked to the Blades and

they authorized me that we will not change the recommended condition of approval on the large animal restriction. One thing I want to note in the pre-app, I believe Mr. Shephard is still here, this is the first time on a minor subdivision as requested by the planner at the pre-app to have prior to submittal a recommendation from the fire district and I will mention that at a later date. On May 21st a memo was sent to the planning department, two things; Mr. Blade completed a water sample on the adjacent well on nitrate. Jim Taylor nondegregation analysis said that any actual background test less than 4.76 would be acceptable. The nitrate level on the adjacent well was .73 thus the level is much more acceptable with the new water sample. Also attached to that memo was information from the West Valley Fire District on fire protection. I want to expand a little bit on the expansion of the road network. After talking with Mr. Grebenc, I went out there with re-surveying and if you look at the southwest corner of this property and you go 150 feet, excuse me 154 feet before the property lines up with Hoge Dr. and what would happen there is you would end up having lots that would be 1.1 acre. So they'd be long and narrow and as Mr. Grebenc said right now the 5 proposed lots are all equal in acreage and because the Blades own the north half lot 17, if they wanted to continue that it would line up perfectly. As far as the separation of 125 feet that Mr. Grebenc mentioned the actual distance is 218 feet so we're well within the 125 feet. As far as staff reporting the effect on Public Health and Safety on this non-exploded ordinance, Mr. Blade is a retired Navy veteran and also a volunteer out at the Fort and he asked if they should hire somebody to go up and sweep this. During the break, I mentioned this to Mr. Grebenc and he said there is some kind of something already done there so that would not be necessary. As far as the recommended condition of approval it talks about #4 being part of a new development, a Five Year Weed Plan. This is tongue in cheek, but when you go out there to do your site evaluation the reason there are no weeds is you have probably the best crop of prickly pear and sage brush in the north hills, so that's why there are no weeds. As far as #6, 'the applicant shall install and/or complete the following requirements for fire protection', I mentioned earlier my surprise that this was necessary before a minor subdivision on the same token, I'm involved in two majors one which was approved March of 2002 we're still negotiating, so I like this idea that we now have a definitive condition of approval, it helps immensely rather than the language negotiate. As far as the road construction #7, I wanted to point out that the original plat we had a 50-foot cul-de-sac, Mr. Blade requested that we're proposing a 60-foot so that is 10 feet more than the standard cul-de-sac. And then as far as #10 your Board of County Commissioners covenances number 'i' 'a prohibition of the raising, confinement, and/or keeping of livestock on any of the lots within the subdivision' we will concur with that, we will not ask for a livestock limitation and then we talked about number 'j' as far as the notification for unexploded ordinance now that I'm aware you people have looked at a map and this apparently has already been studied or swept we don't have to request that we do that. With that, that concludes my presentation. Are there any questions or comments?

Chair Varone: Commissioner Murray.

Commissioner Murray: Madam Chair, Commissioner Tinsley, Mr. Retz. We've received a letter of opposition from Susan Meyer, have you met with Ms. Meyer?

Dean Retz: No, I have not.

Commissioner Murray: Have you got a copy of her letter.

Dean Retz: Yes. I reviewed that with the applicant.

Chair Varone: Any other questions of Mr. Retz before we get. Thank you Mr. Retz, you will have an opportunity to close.

Dean Retz: Thank you very much.

Jerry Grebenc: Madam Chair, Commissioners. If I might, on condition of approval number 10k, I just wanted, I should have mentioned it during my presentation the reason I put that prohibition of construction of buildings or anything within the public access easement, you're going to have a major subdivision before you that unfortunately one of the access routes, in a previous subdivision, the public access easement actually has buildings within it and this was just a way to try to deal with that extension from the cul-de-sac northward at

least people can't say I didn't know, so at least it's a notification in there.

Dean Retz: and may I expand on that please. Could you put that plat back up there? We were aware of this at the pre-app so the cul-de-sac there we have two things there. In the covenances it says a 30-foot building setback and when Mr. Taylor did the non-deg and laid out the proposed wells and septic they're also 30 feet away so we were aware of this so if that road is extended northward it will not be any, there should not be anything in the easement right of way. Thank you.

Chair Varone: Thank you Mr. Retz. This is a Public Hearing. Anyone wishing to speak in support of and opposition to or in general please come forward now and for the record state your name and address.

Susan Meyer: Good Morning Madam Chair and Commissioners. My name is Susan Meyer, I live at 427 Valley View. I do oppose this; you've got my letter and my concerns on the issue as far as water and mostly the access on to the subdivision. They do own the property to the north end of the lot. I would recommend that they come in from Star Rd versus Valley View Rd or run it straight off of Hoge. I'd like to see the road construction go straight out in the valley, which makes it easier to find houses and for the fire department. I just hope you take my concerns into consideration. Thanks.

Chair Varone: Thank you Mam. Anyone wishing to speak in support of and opposition to? For the second time. The third time. This closes the Public Hearing. Mr. Retz.

Dean Retz: Thank you Madam Chairman. Two comments. First with Ms. Meyer on the road issue. When we first met with Mr. & Mrs. Blade we had a unique opportunity to look at the northern half of lot 17 which is a tentative tract or the southern and at this point they have at least have not shared with me any desire to do northern part so to put a road in that way could maybe detract from that. Secondly, and maybe most importantly concerning Mr. Murrays' comment to the prior subdivision, the review period ends on this on June 27th. So, it's always been my desire that I always like to have all three Commissioners present on a vote, but I just want to point that out. It's on June 27th on this one.

Chair Varone: Commissioner Murray.

Commissioner Murray: Madam Chair, Commissioner Tinsley, Mr. Retz. If you wish me voting on this I need you to request an extension through July 8th would be the next time all three Commissioners will be seated together.

Dean Retz: It is my desire that the vote would be Thursday, I would have to defer that Commissioner Murray until the Blades call me which will be this afternoon and I don't know if that is, that might be to late.

Commissioner Murray: Certainly Thursday you could request an extension. I'm going to be out of town on Thursday on County business.

Dean Retz: So if possible, assuming you defer this until Thursday I could come there and then make that decision.

Chair Varone: What we could do is determine to make a decision on Thursday and then once you speak to the Blade's if they want to extend it than you can call Jerry and ask for that extension to take place. Probably would be the appropriate thing to do.

Dean Retz: Thank you very much. Okay.

Commissioner Tinsley: Madam Chair I make a motion we render a final decision on the proposed minor subdivision preliminary plat to be known as Big Valley lot 17 until Thursday, June 26th.

Commissioner Murray: Second.

Chair Varone: It's been moved and seconded all those in favor signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries. If I could just make a statement. Jerry and for Sharon for the staff, I really like the prohibition of raising, confinement and/or keeping of livestock on any of the lots within the subdivision. I really commend the staff for taking a close look at that because as this as the valley continues to populate more and more, I think that prohibition needs to be utilized more and more and appreciate you including it. Commissioner Murray.

Commissioner Murray: Madam Chair, since we're moving on to another subject would you give your parking ticket speech.

Chair Varone: My parking ticket speech is: if you leave today and you have a parking ticket on your car, if you would just bring it up to the third floor into the offices we will see to it that you do not have to pay for it. We're not calling it fixing, we're just saying that you can just submit it to us.

(Someone in audience): I moved my car four times outside

Chair Varone: Oh, I apologize.

Commissioner Tinsley: Should give that speech at the beginning.

Chair Varone: I'm going to start making the speech at the beginning. Thank you.

Estoppel Letter for Pheasant Glen Residences. (Sharon Haugen)

The Commissioners will consider the estoppel letter verifying CDBG grant information.

Sharon Haugen: Madam Chair, Commissioners. What you have before you for your consideration is the estoppel letter to be sent to the General Partners in the Pheasant Glen multi-family project. As you may be aware, the County partnered with Rocky Mountain to do Pheasant Glen apartments over at the skeleton addition through the Community Development Block Grant. General Partners are requiring that we verify that the Block Grant is still in force and the amount, and they want us to verify the amount that we have currently dispersed to Rocky Mountain Development Corporation. For the record, that amount is \$494,939.79 that is out of a \$500,000.00 grant. The contract is indeed still in force, there have been no, there is no reason not for it to be enforced and staff does recommends approval of the letter and be happy to answer any questions you may have.

Commissioner Murray: Madam Chair, Commissioner Tinsley. Sharon, explain the meaning of 'estoppel'. I know what a 'Gestapo' is, but not an 'estoppel'.

Sharon Haugen: Um, Madam Chair, Commissioner, I'm not really sure what it is it's just a verification that we have an interest in that and that all the conditions of our interest are being met.

Chair Varone: Commissioner Tinsley knows what 'estoppel' means Mr. Gestapo.

Commissioner Tinsley: Mr. Gestapo, I'm not a lawyer, but I believe it means a letter of verification or proof.

Commissioner Murray: I could go home, I learned something new. If the renaissance man is correct I've learned it for the day. Madam Chair, I would move the County to send an estoppel letter and authorize the chair to sign said letter.

Commissioner Tinsley: Second.

Chair Varone: All those in favor signify by saying 'I'

Commissioners: 'I'

Chair Varone: If I could, I have two copies of the original but the contract amount is not filled in and if I could get the amount filled in then I would be happy to sign it. Thank you.

Public comments on matters within the Commission's jurisdiction.

Since there's no-one in the audience for comment, we are adjourned.

Adjourn.