

NOTICE OF SUBDIVISION MEETING

September 2, 2004

Others attending all or part of the meeting: Mark Adams and Catherine McNeil

Pledge of Allegiance. (everyone recited the pledge)

Chair Murray: Good morning and welcome to the Lewis & Clark County regularly scheduled subdivision meeting. My name is Mike Murray. To my left is Commissioner Varone, to her left is Carole Byrnes our executive secretary. To my far right is Commissioner Tinsley, to his right is Sharon Haugen our Director of Planning and to her right is Ron Alles our Chief Administrative Officer.

Bid Award. (Brian Holling)

The Commissioners will consider awarding the bid for the CTEP Augusta Sidewalk Project to Bonser Construction in the total amount of \$59,985.

Brian Holling: Thank you Chairman Murray, Commissioner Varone, Commissioner Tinsley. This item is consideration of an award of a construction contract to Bonser Construction. This is for the installation of sidewalks and ADA parking in front of the school also there's a bid alternative we're recommending for award, which is additional sidewalks around the side of the school to a remote classroom and the second alternate is, second alternate is a bid for sidewalks and ADA parking in the new fire hall. There were four bids for the project, Bonser Construction was the low bid. This project is partially funded, mostly funded by CTEP funds and the remaining funds are provided by the school district and the recommendation is to award the base bid, additive alternate #1 and additive alternate #2 to Bonser Construction in the amount of \$59,985.00.

Chair Murray: Questions of Mr. Holling? Mr. Holling I have one question, the design work has been done on the ADA parking at the fire hall?

Brian Holling: Yes it has.

Chair Murray: Thank you.

Commissioner Tinsley: Mr. Chairman I move approval of the contract for construction of the CTEP project for the Augusta sidewalk with Bonser Construction in the amount of \$59,985.00 and authorize the chair to sign.

Commissioner Varone: Second

Chair Murray: We have a motion and a second, all in favor of the motion signify by saying Aye.

Commissioner Varone: Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries.

Independent Contractor Agreement (Sheriff's Radio Project). (Mark Adams)

The Commissioners will consider the agreement with Integrated Power Systems in an amount not to exceed \$49,900 for the purchase of the UPS system for the Law Enforcement Center.

Mark Adams: Thank you Mr. Chair. This independent contractor agreement with Integrated Power Systems is to provide a UPS system for the Dispatch Center and for the radio equipment at the Law Enforcement Center. Two quotes were obtained for this and Integrated Power Systems was the low quote.

Chair Murray: Do you and the Sheriff's office recommend we accept it?

Mark Adams: The Sheriff's Office is recommending that we accept it. This is being funded partially from the project for the radio and partially from 9-1-1 funds.

Chair Murray: Thank you. Commissioners' questions? Is there a motion?

Commissioner Varone: Mr. Chair I move approval of an Independent Contractor Agreement with Integrated Power Systems in an amount not to exceed \$49,900 for the purchase of the UPS System for the Law Enforcement Center and authorize the chair to sign.

Commissioner Tinsley: Second

Chair Murray: We have a motion and a second all in favor signify by saying Aye

Commissioner Varone: Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries. Now that it's passed Mark, tell us what a UPS is, the acronym for UPS please.

Mark Adams: Uninterrupted Power Supply. It protects the equipment from power surges and outages.

Chair Murray: Thanks.

Independent Contractor Agreement (Sheriff's Radio Project). (Mark Adams)

The Commissioners will consider the agreement with Eagle Electric in the amount of \$21,259 for electrical work on Sunset Mountain.

Mark Adams: This is directly tied to the radio project. This is for the electrical work associated with upgrading the radio tower sight on Sunset Mountain. It includes the purchase and installation of a 50 KVA propane powered generator and upgrading the service to 200 amp to accommodate the equipment and wiring to the new building that will be installed as part of the construction.

Chair Murray: Questions of Mr. Adams? Is there a motion?

Commissioner Tinsley: Mr. Chair I move approval of the Independent Contractor Agreement with Eagle Electric in the amount of \$21,259 for electrical work on Sunset Mountain and authorize the chair to sign.

Commissioner Varone: Second

Chair Murray: We have a motion and a second, all in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries.

Contract Change Order 002 with Motorola (Sheriff's Radio Project). (Mark Adams)

The Commissioners will consider the change order to adjust the payment milestones of "Successful Completion of Factory Staging" into two milestones. The new contract value is \$3,202,043.

Mark Adams: Mr. Chair this is a change order that has been requested by Motorola. This project has been on a fast track as you know from the beginning and consequently it's not following the normal development life cycle. What they're been focusing on is getting the equipment ordered and shipped in time for installation before the snow flies and as a side note there's been a bunch of soft deliverables that are associated with this, operational concepts and business practice review for the entire project. What they have done is successfully completed the staging of the equipment. Under Sheriff Dutton and I went to Chicago and performed a day and a half of testing and approved the shipment of the equipment however, the soft deliverables are not prepared yet so Motorola has an investment in the hardware that they would like to request that we split this deliverable payment so that they can get funds for that while still keeping funds set aside for the deliverable of the soft deliverables.

Chair Murray: Questions of Mr. Adams? Is there a motion?

Commissioner Varone: Mr. Chair I move approval of a contract change order 002 with Motorola to adjust the payment milestones of Successful Completion of Factory Staging into two milestones. The new contract value is \$3,202,043 and authorize the chair to sign.

Commissioner Tinsley: Second

Chair Murray: We have a motion and a second, all in favor of the motion signify by saying Aye.

Commissioner Tinsley: Aye

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries. Under Sheriff Dutton we want to acknowledge your presence this morning, thank you for attending. Thanks Mark.

Proposed Minor Subdivision, Preliminary Plat to be known as Spud King Acres Subdivision.

(Applicant, Ken & Catherine McNeil) (Planner, Michael McHugh) (cont. from 8/31/04)

The Commissioners will consider creating five lots, 4 for one single-family dwelling and one for commercial shop with storage building. The applicants have indicated that no commercial lighting or signage would be installed on proposed lot 4. The subject property is located in the SW1/4 of Section 11, T10N, R3W; generally located south of and adjacent to York Road and west of Tizer Road.

Chair Murray: Commissioners what is your preference? Do you have questions of staff?

Commissioner Tinsley: Mr. Chair, Commissioner Varone I did have one question. Regarding, because I have a note here in my file regarding, actually I have two questions regarding future potential access onto York Road, the main York Road not the old York Road, there was a suggestion made by you I believe Michael at one point and this may be for the future with regards to the County Road Standards of the County Planning Department for a right in and right out access onto that road. Is that something we need to put in this document or is that something that can be done

Michael McHugh: That's something that the Department of Transportation would have to

Commissioner Tinsley: I guess that is correct, yeah.

Michael McHugh: Right now there'd be an existing approach to Lot 4 which is the proposed commercial lot and then there's a no-access restriction along the northern boundary of lot 5 which is the larger lot in the subdivision.

Commissioner Tinsley: Mr. Chairman, Commissioner Varone, Michael do you see a need for us to put any kind of language in there that would encourage them to take a hard look at that or is that

Michael McHugh: Normally MDOT will contact us and we provide them comments and everything, but it's up to MDOT to place that restriction.

Commissioner Tinsley: Mr. Chairman, Commissioner Varone with regards to item #9, I think some language is going to be prepared that would make it a little bit more general in nature that would allow the applicant to meet with East Valley to come to some kind of agreement for a fire protection plan

Michael McHugh: Because the DNRC controls water rights on this and it's a change of use there's going to have to be some negotiation with the Department of Natural Resources and Conservation to further this thing and what staff has recommended that the condition read that the applicant shall contribute \$500 per new lot to the East Valley Fire District for additional fire protection or as negotiated with the Department of Natural Resources and the East Valley Fire District. It's going to take some time to deal with the water rights and permitted uses, the potential change of permitted uses and that's what staff is recommended. The commission also

Chair Murray: Excuse me Mr. McHugh, I didn't totally understand. You're recommending that we stay with the \$500 rather than adding or negotiate use of the wells with the fire department?

Michael McHugh: What staff is recommended is leave the \$500 and/or as negotiated with the

Department of Natural Resources and Conservation and the East Valley Fire District because the fire district may be willing to do it but the DNRC regulations may not permit the change of water use right, so I mean there's a lot of nuances here that have to be dealt with.

Chair Murray: Thank you. Commissioner Tinsley?

Commissioner Tinsley: Mr. Chair I move approval of the, I'm sorry, if Commissioner Varone has anything I would defer before I move

Chair Murray: Commissioner Varone?

Commissioner Varone: Thank you Mr. Chair, Commissioner Tinsley. The question relative to the fire is what I was going to ask and I like the language that Michael has recommended because it really leaves the options open for people to move forward one way or another.

Chair Murray: Commissioner Varone you also brought up the subject of livestock and the response was that lots 1 & 2 were in the covenants are you satisfied with that

Commissioner Varone: I was going to wait until after the motion and than further changes.

Chair Murray: We have a ___ there's actually 15 proposed conditions of approval.

Commissioner Tinsley: There's fifteen?

Michael McHugh: There's two #14's that is a typographical error

Commissioner Tinsley: I see that. Mr. Chairman I move approval of the proposed minor subdivision preliminary plat to be known as the Spud King Acres Minor with the fifteen conditions of approval as recommended by staff and authorize signature of the chair.

Commissioner Varone: Second.

Chair Murray: We have a motion and a second. Commissioner Varone?

Commissioner Varone: Mr. Chair do you think maybe first what we should do is the recommendation for condition of approval #9 based on what Michael recommended and if I have this right I believe your recommending that it read the applicant's shall contribute a fee of \$500 per new lot to the East Valley Fire District for additional fire protection or as negotiated with DNRC and the Fire District.

Michael McHugh: Correct

Chair Murray: Is that a motion?

Commissioner Tinsley: Second

Chair Murray: We have a motion and a second to amend condition #9 all in favor of the proposed change signify by saying Aye

Commissioner Tinsley: Aye

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries.

Commissioner Varone: And secondly Commissioners if I may under condition of approval #11, on page 9 and Michael I know I don't have this language correct it would be an additional condition 'j' that provides for a prohibition of livestock on lots 1&2 and allows 4-H animals or a maximum of two large animals on lots 3&5.

Michael McHugh: Normally what we would put is that there be a prohibition of raising or confinement of livestock and lots 1&2 and then there'd be another condition that would permit the raising of 4-H project animals on lots 3&5. Normally we don't get into the number of animals.

Commissioner Varone: Then I'm fine with that, should we deal with first of all with prohibition of livestock on lots 1&2 that would be a new item 'j'.

Michael McHugh: Correct

Commissioner Tinsley: Second

Chair Murray: We have a motion and a second all in favor of prohibition of livestock on lots 1&2 signify by saying Aye

Commissioner Tinsley: Aye

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries.

Commissioner Varone: And then a new condition of approval 'k', I understand your recommendation Michael but the land is such a small area I'm wondering if we would be in trouble if we say that we allow 4-H and livestock and 3&5 that they'd end up with 25 & 30

Michael McHugh: and like I, I believe that the applicants have like three children and so each one of the children wanted to raise a sheep or a steer or something like that it could present a problem and normally 4-H projects are for a short period of time, it's not a continuous grazing of the property.

Commissioner Varone: So than would you restate the condition usually says

Michael McHugh: The condition would read that 4-H projects would be allowed on, the raising of 4-H animal projects would be allowed on lots 5&3.

Commissioner Varone: I'm comfortable with that and that is a motion. I just wanted the freedom that if they didn't have 4-H but they just had regular animals, I wanted that allowed to but not 10

Commissioner Tinsley: You said you are comfortable, or not?

Commissioner Varone: I was comfortable with the 4-H language but I just wanted to expand it to

make sure that if they're not raising 4-H but wanted a couple of horses or a horse or a donkey that they could still do that

Michael McHugh: You know this project is, or this proposal is kind of unique it does have these high production irrigation wells and there is the ability to produce a fairly high volume of grazing feed on the property if the applicant choose to do that.

Commissioner Tinsley: Mr. Chairman, Commissioner Varone. If your motion is what Michael said, if that's what it's going to be than I will second it.

Commissioner Varone: Which is the 4-H animals?

Commissioner Tinsley: Right

Commissioner Varone: Alright, that will work. I just wanted to, didn't want to, well I've already said it.

Commissioner Tinsley: Second.

Chair Murray: We have a motion and a second to add a condition 'k' which deals with limiting livestock to 4-H animals, all in favor of the motion signify by saying Aye.

Commissioner Tinsley: Aye

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries.

Commissioner Varone: That's all I have Mr. Chair.

Chair Murray: Commissioner Tinsley anything? Commissioners you have before you fifteen conditions as amended and a motion to approve the Spud King Acres Minor, all in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries. Thank you Mr. McHugh.

Proposed Minor Subdivision, Preliminary Plat to be known as Duthie Tract (Blue Bird) Minor Subdivision. (Applicant, Richard Cary) (Planner, Michael McHugh) (cont. from 8/31/04)

The Commissioners will consider creating three lots, each for one single-family dwelling. The subject property is located in the SW1/4 of Section 24, T11N, R4W; generally located east of Green Meadow Drive and south of and adjacent to Barraugh Road.

Chair Murray: Commissioners?

Commissioner Tinsley: Mr. Chairman, Commissioner Varone. Question for Mr. McHugh. Have we

resolved the issue with regards to the possible or the existing encroachment or easement for the Green Meadow Fence on Barraugh Road?

Michael McHugh: Mrs. Miller did provide us with a copy of a plat, we haven't been able to go out. That is the responsibility of the surveyor. If there's not the necessary right of way there, the applicant would be required to come back and either amend the conditions of the approval as written, I mean he's required to have the standards 60 foot right of way and he's required to do the improvements. If the right of way is not there and he is not able to improve the road than he's not able to final plat without coming back.

Commissioner Tinsley: Mr. Chairman, Commissioner Varone. Would not the applicant have to come back and request a variance from the County Road Standards

Michael McHugh: That's one of the possibilities or he could request a modification of conditions and I hope that you did receive a copy of the previous variance request and conditions of approval for the ___ minor.

Commissioner Tinsley: Oh I did, it was pretty interesting reading. Mr. Chairman, Commissioner Varone. I don't believe any of the applicants are present this morning and the date on this ends next Thursday. It appears at least to me that this issue, I mean it's been resolved but not to the point of being able to go forward with this this morning I don't believe. I guess for discussion purposes we got to see where we go from here.

Chair Murray: Commissioner, by past practice once the public hearing closes we've told the applicants that it's not necessary for them to be present as no additional testimony will be heard from them or the public. If you're suggesting that you'd like to table it to the 9th, I would entertain such a motion.

Commissioner Tinsley: I'll make the motion for discussion purposes at least, so moved.

Commissioner Varone: I'll second it for discussion purposes.

Chair Murray: Well let's discuss please. We have a motion and a second.

Commissioner Varone: Mr. Chair, Commissioner Tinsley

Commissioner Tinsley: Should we pass that first

Commissioner Varone: Oh yeah.

Chair Murray: Not necessary to pass it to have discussion, you have before you a motion to

Commissioner Tinsley: We can go ahead

Chair Murray: table until the 9th the final decision, Commissioner Varone.

Commissioner Varone: Thank you Mr. Chair. Commissioner Tinsley, Michael help me out here because I thought that the language as you drafted it in condition of approval #5 puts the applicant on notice that it's his responsibility and requirement and that should any other action need to be taken that's another, isn't that another

Michael McHugh: That's what I was trying to explain to Commissioner Tinsley is hopefully the way that condition #5 is written it's the responsibility of the applicant to go out, provide the documentation that they have the necessary right of way at the roads in the correct location and then if it's not, staff will review any documentation that's submitted and if it's not the applicant would either have to come back and request a variance or request a modification of these conditions of approval.

Commissioner Tinsley: Pardon, Mr. Chairman, Commissioner Varone, pardon me I was assuming we had to do any variance request on this particular issue up front. You're saying prior to final plat the applicant can come back and request a variance for this specific condition of approval.

Michael McHugh: Yeah, basically, it's very costly to go out and hire a surveyor to go out and identify all this stuff and it's been the past practice of the Commission's and the Planning Department has tried to limit the pre-platting cost to the applicant. He is going to be responsible for providing this and if the adequate right of way or the location or anything is not there than he doesn't get to plat it without coming back and if we need to modify the language in condition, proposed condition of approval #5 than we can do that now but staff does believe that the language is adequate to ensure that the road is correctly placed and correctly improved.

Commissioner Tinsley: Mr. Chairman, that's fine with me, I was under the misunderstanding that we had to do the variance work up front. I do recall now that we have in the past done that, so I'm perfectly happy to withdraw my motion to table it

Chair Murray: with permission of the second?

Commissioner Varone: Yes

Commissioner Tinsley: Yes, that's fine

Chair Murray: the motion is withdrawn, is there another motion?

Commissioner Varone: Mr. Chair, I move approval of the proposed minor subdivision preliminary plat to be known as the Duthie Blue Bird Tract Minor including the thirteen conditions and authorize the chair to sign.

Commissioner Tinsley: Second.

Chair Murray: We have a motion and a second. Discussion.

Commissioner Tinsley: Mr. Chair, Commissioner Varone. Mr. McHugh you indicated at our meeting on Tuesday the public hearing I believe and I'm not trying to put words in your mouth that in the past we had some particular subdivision required an applicant to clean up an obvious eye sore on a property, is that still possible to do in this particular case with regards to condition of approval

Michael McHugh: You are putting words into my mouth, it was Commissioner Murray that

Commissioner Tinsley: Was it Commissioner Murray that, I apologize for putting words into your mouth. Can we talk about that for a moment and see

Michael McHugh: I have not found any statute that would permit us to place that as a condition of approval of subdivision approval. There are community decay ordinances, the Health Department, The City-County Health Department has agreed to go out there and make a site inspection. There's also a junk vehicle ordinances that deal with auto parts and things like that so I think it's in the purview of the existing community decay ordinance that would require the clean up.

Commissioner Tinsley: Mr. Chairman, Commissioner Varone. Let me ask the question this way. Have we ever passed a condition of approval that's withstood the test of law or the test of the applicants' nerves I guess that has not, that we don't have specific approval to condition.

Michael McHugh: Staff has only been able to identify one subdivision approval which is the one that Commissioner Murray referred to out on the old Highway 12 in East Helena and the applicant did not object to it, it's within the Commission's purview to place this condition on there. I would, if you were going to do that I would make it a condition and not part of the covenants.

Commissioner Varone: Mr. Chair, Commissioner Tinsley. I ___ speak for all three of us but I believe all three of us are real concerned about the community decay ordinance as it's written now and we want to get it re-written and I'd love to be able to have this in the covenants part. Would it be reasonable to say something like notification that the applicant is required to comply with the community decay ordinance or am I just beating a horse to death?

Michael McHugh: That's one method, I mean it's notification and as the applicants representative indicated that the property had been purchased, the property is currently occupied by a renter and that the applicant was going to clean it up so I mean you can have that notification on there, the enforceability of it is

Chair Murray: Mr. McHugh, how did the condition read in the one instance that came to mind in East Helena?

Michael McHugh: It gave the applicant a specified period of time to remove all the debris from the property and I believe it was one year.

Chair Murray: We all have the same goal we want.

Commissioner Tinsley: Mr. Chair, Commissioner Varone. I don't feel just notification is strong enough, I think we need to put in a condition of approval and Mr. McHugh has indicated that he would prefer we didn't do it in the covenants and that's fine with me. I don't know about the time period, I would suggest that we just put in a notification with language that approaches something like prior to final plat the applicant will remove the debris as outlined in the, and not necessarily debris we can change that word, but as outlined by the staff in the staff report something similar to that. I mean I think we need to do a strong statement, not just notifying them of the community decay ordinance but advising them to clean it up before final plat.

Commissioner Varone: Mr. Chair, if I could just add a little bit to that I would be willing to second that, but I believe we need to add some language if you're agreeable to say pending approval from the Deputy County Attorney's Office, or the County Attorneys Office because he may have some information that doesn't allow us to do that and that would give us an opportunity that if it meets legal muster we can include it and if it doesn't we won't have it in there.

Sharon Haugen: Mr. Chairman, Commissioners. One of the things that we have to be aware of is if

Mr. Stahl was here and what he has said before is that the Commission can put any conditions that they want, one of the things we have to be aware of as part of this discussion is what the commission is going to use as their definition of cleaned up. If indeed the applicant and I have not been out to the site so I don't know if there's junk vehicles or anything else but if the junk vehicles are licensed or approved running than they are not junk vehicles as defined by our own ordinance so that, I just want to caution, I don't have a solution to that problem, I just want to caution to that

Michael McHugh: For the record, there are not junk vehicles it's just gas tanks, old transmissions, tires, construction debris, piles of old wood, there's piles of materials that may or may not have been furniture at one time. I didn't spend a lot of time looking at those, but.

Commissioner Varone: There's also a couple of buildings out there that are leaning dangerously and about ready to fall over.

Chair Murray: There are enough car parts out there to build a junk vehicle though.

Commissioner Tinsley: Mr. Chairman, I may have a solution, I don't know. I'm trying to figure out a way to do this correctly and let's just be blunt here. The applicant's representative indicated that he's willing to clean this mess up, it was identified in the staff report of there being several piles of and I'll read it verbatim if I can find the beginning of this one

Michael McHugh: under the present land use it said several piles of construction debris, household materials, tires, and auto parts are located, it's on the first page.

Commissioner Tinsley: My recommendation is because these could be considered an attractive nuisance to small children in the interest of safety, we are requiring the applicant to clean this up, these piles up prior to final plat.

Chair Murray: Is that a new motion

Commissioner Tinsley: That' is a motion and I will also allow in my motion the ability of staff to refine the language in a way that's agreeable to all three of us.

Chair Murray: Is there a second?

Chair Murray: I'll second the motion. So we have a condition #14 that's yet to be developed by staff with the intent as stated and all three commissioners according to the motion and second will have the opportunity to review and approve the condition. Further discussion. All in favor of the motion signify by saying Aye.

Commissioner Tinsley: Aye

Chair Murray: Aye. Opposed?

Commissioner Varone: Aye, and the only reason I'm opposing is I don't like using that kind of language to get done what we need to get done. I think we're kind of going around using methodology that's kind of getting around what we want to do, I would rather just state it and something needs to be done but I just don't like the language recommendation is, that's the only reason I voted no.

Chair Murray: Motion did carry. Commissioner Varone I'm assuming it was you, but I'm not positive in

condition #10 you brought up the livestock prohibition even though these are small lots.

Commissioner Varone: I did, I just think it's language that needs to be in there and if I may, condition of approval #10.g. I believe is the next one and this is a motion to add a prohibition of livestock, the general language that's used.

Michael McHugh: Also in the previous discussion there was the possibility of notification of the salvage yard there and the

Chair Murray: If we can just deal with animals first and then we'll

Commissioner Varone: Then we'll move on and we can talk about it.

Chair Murray: I'll second the Commissioner Varone motion.

Commissioner Tinsley: I'm sorry

Chair Murray: We have a motion before us to add under 10.g a livestock prohibition on the lots, all in favor of that motion signify by saying Aye.

Commissioner Tinsley: Aye

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries. Commissioner Varone?

Commissioner Varone: I'll just bring it up again and than Michael maybe you will want to talk about it more, we discussed on Tuesday adding also a covenant which would be 'h' that provides for notification of the salvage yard operation in the area in the regular language that's associated with that.

Michael McHugh: Typically the notification would read notification of operation of auto salvage yard located northwest of subject property. There may be impacts associated with noise, dust and other potential impacts and we probably need to add in there that there is a potential of expansion of that operation at some point.

Commissioner Varone: I support that language and I make a motion.

Commissioner Tinsley: Second

Chair Murray: We have a motion and a second adopting general language of notification of warning that industrial activities pertinent to a salvage yard take place, all in favor of the motion signify by saying Aye.

Commissioner Tinsley: Aye

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries. Is there further amendments Commissioners? There being none, Commissioners you have before you fourteen conditions as amended for approval of the subdivision

to be known as the Duthie or Blue Bird Tract Minor, all in favor of the motion signify by saying Aye.

Commissioner Tinsley: Aye

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries. Thank you Mr. McHugh.

Commissioner Varone: Mr. Chair, I'm not sure if this is the appropriate time, but since we were talking about the community decay ordinance, if I could ask either Ron or Sharon probably Ron, have you been in contact with the County Attorney, or Deputy County Attorney and ask if they're going to have that information ready for us to discuss?

Ron Alles: Commissioners, the County Attorney's office is working on it, we have contacted them, it's a work in progress, I have no further update than that.

Commissioner Varone: With approval of the other two Commissioners would you ask them to be prepared because Commissioner Tinsley took this on as a special project with interest from both of us Commissioners early on in his term and it's been well over a year and I think that somehow we need to get some action on this.

Ron Alles: Certainly.

Commissioner Varone: Thank you.

Chair Murray: Are we finished Mr. McHugh?

Michael McHugh: I don't have an agenda, but I have one more thing.

Request for Road Naming for Lot 2 of the Gilleran Minor Subdivision. (Addressing Coordinator, Jerry Grebenc) (cont. from 8/31/04)

The Commissioners will consider the request.

Commissioner Tinsley: Mr. Chair, Commissioner Varone. I took the liberty of calling Chief Jester of the Lewis & Clark County Fire Department this morning just because I pondered over this question for the last, since our last meeting, just to find out his thoughts on it and I was actually leaning personally towards Ms. Gilleran's suggestion simply because I thought that was a noble gesture on her part to recognize Mr. Owens' contributions to the community over the probably last 50 years of his 96 year old life or 92 year old like and I thought it would be a nice way to recognize him. But Chief Jester did concur with Mr. Grebenc's statement regarding the naming of roads with regards to people and it could confuse emergency services personnel on their way to, in their responses to emergencies and so I read him the other two names that were suggested, he did not like the third name that was a variation of Oro Fino, he was perfectly fine with the first name and I just wanted to pass that on to my fellow Commissioners and I couldn't think of any other good names at least that we could put on a map for this particular road.

Chair Murray: Commissioner Tinsley are you prepared to make a good motion naming one.

Commissioner Tinsley: I will move that we accept, I will move that we name the road in question it's

pertaining to lot 2 of the Gilleran Minor Subdivision as suggested by the Vick's Chimney Rock Road and authorize the chair to sign.

Commissioner Varone: Second.

Chair Murray: We have a motion and a second. Discussion? All in favor of the motion signify by saying Aye.

Commissioner Tinsley: Aye

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries. Thank you Mr. Grebenc.

Jerry Grebenc: Thank you Commissioners. Just one other note, I suspect that you are going to see a substantial number of these issues coming up hopefully this Winter when I have more time to start correcting more addresses and getting roads named. So hopefully we get a lot of participation but I suspect that we'll have to ask the board to name some roads.

Commissioner Tinsley: Mr. Chairman. Mr. Grebenc is it possible for you to put a list together for us of the names, I know it will probably be a huge list and one copy would be fine I think for this, for future possibilities because it would be nice when we get these disputes like this to look over what we do have and I don't know if that is something you can even do but if it is, something that we could look over and than maybe if we have an alternative suggestion we could bring it to you without having to go to you and have you research if that name exists or not.

Jerry Grebenc: Well, and my intent is to do that. In this situation I looked at the surrounding, in that area I was hoping some topographical features, but the only thing on the USGS maps were ski high peak and what not which were considerable distance, Park City and what not so this particular one there wasn't much to work with but if we have an issue that comes up if we have a stream name, ridge or anything else if the neighbors can't agree to that I'll certainly put together a list of appropriate names that at least pertain to the area. Maybe it will be incentive for the people to actually choose their own road names, so I will be happy to do that.

Commissioner Tinsley: Thank You.

Chair Murray: We look forward to working with you this Fall.

Jerry Grebenc: Thank you.

Final Plat Approval for the Lowe Tract Lot 10 Minor Subdivision. (Applicant, Lyle Hostetler)
(Planner, Michael McHugh)

The Commissioners will consider approving the final plat.

Michael McHugh: Commissioners, this is a five lot minor subdivision that was granted preliminary approval on March 25th of this year with thirteen conditions. The property is located in the south of York Road and west of Pioneer Park Road. All the conditions except condition #8 and the final signatures of the plat have been completed. Condition #8 requires a payment of a \$500 per lot fee to be deposited in the account of the East Valley Fire Department. This is normally done at the

same time that they do the final plat and the applicant is going to make that contribution so staff does recommend signature of the final plat.

Chair Murray: By consensus Commissioners are we agreeable to sign it?

Commissioner Tinsley: Yes

Chair Murray: So we'll sign it at the end of the meeting.

Resolution Setting County Schools Mill Levy. (Superintendent of Schools, Marsha Davis)

The Commissioners will consider the resolution.

Marsha Davis: Good Morning Commissioners. You should have in your packet the presentation of the school levies for the 2004-2005 school year, in a chart form which details the mill requirements for each of the elementary districts and the high school districts and just briefly looking at last year there is about four of the elementary districts who had a slight decrease in their mill requirements, five of the elementary districts had increases in their mill requirements and all of the high school districts mill requirements did increase. Then as far as the County wide levy is concerned in the box on the far left toward the bottom, the County elementary and high school levies are set by law 33 & 22 mills respectively and than the elementary retirement and high school retirement mill levies and the school transportation mill levies vary each year depending on the needs of the schools. You also have a chart that shows those County levies and as I told you I belie last year the, I anticipated that the elementary and the high school retirement would decrease this year and indeed those levies are going down and the reason for that decrease is the Senate Bill 424 from last legislative session which mandates schools for any federally employed staff they're retirement benefits must come from the federal funds and not from the County retirement. The transportation levy has increased and I believe the reason for that is based on some increases in routes and also bus capacity. That's the on schedule costs for bus transportation is split between the State and the County and any over schedule costs are contributed to individual district levies. Are there any questions?

Chair Murray: Questions of Dr. Davis? Is there a motion for us to sign?

Commissioner Varone: Mr. Chair, I move to approve a resolution setting county school mill levy and authorize the chair to sign.

Commissioner Tinsley: Second

Chair Murray: We have a motion and a second and actually Commissioners on the form there's space for all three of us to sign

Marsha Davis: and on the school budgets I do need the Chair signatures on those

Commissioner Varone: Mr. Chair if I could modify my motion to include the school budgets and all additional documentation required.

Commissioner Tinsley: I'll modify my second.

Chair Murray: So we have a modified motion all in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries.

Marsha Davis: Thank you Commissioners.

Commissioner Tinsley: Thank you.

Resolution Canceling Uncalled Warrants Drawn on US Bank of Helena with a Date of Issuance between May 15, 2002 and December 31, 2003 from the Tax Writ Fund #706. (Nancy Everson)

The Commissioners will consider the resolution.

Nancy Everson: Commissioners, this is standard clean up. We try to do this once a year where we go through and clean up all warrants older than one year, those warrants are written off in our books, the proceeds are placed in the all purpose fund. If anybody comes back to cash one of those warrants within the next seven years, we will cash those even though they've been written off we're still liable for that amount for up to seven years. It's just cleaning up our books so we're not carrying those outstanding warrants.

Chair Murray: Discussion? Commissioners, Ms. Everson at looking at this I have a real problem if we're issuing checks in the amount of a nickel, six cents, eleven cents instead of offering to pay or paying these out of petty cash. It costs us about, I assume \$25 to issue a warrant.

Nancy Everson: Commissioner Murray this is a separate checking account that is handled by the tax writ officer, he has a checking account it runs with a separate micker code runs through out bank account but it's not something that is issued through the County.

Chair Murray: So the cost is much less.

Nancy Everson: Yes

Chair Murray: Is there a reason that we still would write a check for a nickel, six cents, eleven cents as some of these claims are rather than paying out of petty cash and getting a receipt?

Nancy Everson: We can look into that and see if that would be easier to do.

Chair Murray: I want the County to continue receiving perfect audits so if that's what it takes to get it, I'm not adverse to it. Commissioners is there a motion?

Commissioner Tinsley: Mr. Chairman I move a resolution canceling uncalled warrants drawn on US Bank of Helena with a date of issuance between May 15, 2002 and December 1, 2003 from the tax writ fund #706 pursuant to section 7-6-2607 MCA and authorize the chair to sign.

Commissioner Varone: Second, if we can just add for the record the total amount of the

Commissioner Tinsley: The total amount is \$9.24

Commissioner Varone: Thank you

Chair Murray: We have a motion and a second for canceling the warrants in the amount of \$9.24, all in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries.

Amendment to Standard Audit Contract. (Nancy Everson)

The Commissioners will consider the contract amendments for Anderson ZurMuehlen & Co. P.C. in the amount of \$42,000.

Nancy Everson: Commissioners this is an amendment due to Anderson ZurMuehlen and the Lewis & Clark County Library agreeing to perform a full separate audit on the library financial records for fiscal year 2004. For the past two years they have just done, I don't want to say compilation work, but they have included the library audit as part of our audit and not issued a separate audit report to the library and we have included the cost in the standard audit contract of I believe in 2004 it was \$4,300 the one they're just beginning to work on was already included in the standard (tape ends) (tape begins) ... increased our audit cost to \$42,000 the library will reimburse the \$7,000 cost of the library audit to the County.

Chair Murray: Questions of Ms. Everson? Is there a motion?

Commissioner Varone: Mr. Chair I move approval of an amendment to the Standard Audit Contract for the library for Anderson ZurMuehlen & Co. in the amount of \$42,000. and authorize the chair to sign.

Commissioner Tinsley: Second

Chair Murray: We have a motion and a second, all in favor of the motion signify by saying Aye.

Commissioner Tinsley: Aye

Commissioner Varone: Aye

Chair Murray: Aye

Commissioner Tinsley: Mr. Chairman, Commissioner Varone if I might at this point

Chair Murray: Motion carries

Commissioner Tinsley: I'm sorry

Chair Murray: Commissioner Tinsley?

Commissioner Tinsley: Mr. Chairman at this point if you wouldn't mind giving me a little personal

privilege, just to remind our TV audience that next Wednesday the library is going to have one of two grand openings that they're having on their new renovations at five and it starts about 5:00 so the public can go in, those who haven't had a chance to see the renovations. It's a magnificent building; they should go down and take a look at it. Thank you.

Chair Murray: Will the new fence be installed Commissioner Tinsley that we approved Tuesday?

Commissioner Tinsley: Mr. Chairman I cannot speak to that, I will defer that question to our planning director.

Sharon Haugen: Why don't we defer to our public works director.

Chair Murray: We'll all go to five and go to the grand opening of the library at that time.

Resolution Declaring County Property Surplus Property. (Audra Zacherl)

The Commissioners will consider the resolution to surplus vehicles with individual values less than \$2,500.

Nancy Everson: Commissioners, this is a resolution surplus some Sheriff's vehicles which have a value of less than \$2,500. This is standard procedure, are we on the wrong one?

Chair Murray: You are on the right one. There is a 1999 GMC 4X4 in the amount of \$4,500.

Nancy Everson: Woops. So that one should probably be on the other. Do we need to fix that?

Chair Murray: No, it's fine on this one, I think isn't it Commissioners? Do you want this re-written?

Commissioner Varone: I think we just, all we need to do is

Ron Alles; They're fine,

Commissioner Varone: to say under \$4500 or under \$5,000

Commissioner Tinsley; We need to change the number 3 whereas, isn't that right

Chair Murray: So with agreement will change that to \$5,000. Agreeable Commissioners?

Commissioner Tinsley: That's fine

Commissioner Varone: Yes.

Chair Murray: Excuse me Ms. Everson

Nancy Everson: Continuing on these are Sheriff's vehicles that will be sold at the Sheriff's sale as part of our capital improvement plan they surplus their older vehicles and replace a certain number of vehicles every year with newer ones.

Chair Murray: Commissioners, if you elect to pass this resolution you need to authorize me to sign the resolution as well as the titles for these vehicles please.

Commissioner Tinsley: Mr. Chairman I move approval of the resolution declaring County Surplus property as described in exhibit 'A', all of the items in exhibit 'A' individually have a value less than \$5,000 authorize the chair to sign the resolution and the titles of the vehicles.

Commissioner Varone: Second.

Chair Murray: We have a motion and a second. Discussion? All in favor of the motion, excuse me Commissioner Varone?

Commissioner Varone: Thank you Mr. Chair, Commissioner Tinsley. Nancy if you would for us and for the audience explain what happens at the auction when they buy, when the vehicles are auctioned off, what happens to the funds that are received as a result of the auction?

Nancy Everson: Those proceeds are deposited back into the public safety fund.

Chair Murray: Which is the Sheriff's fund. Thank you. Just so everybody understands what the public safety fund is.

Commissioner Varone: we haven't voted

Chair Murray: Haven't we?

Commissioner Varone: No

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

Commissioner Tinsley: Aye

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries.

Resolution Declaring County Property Surplus Property. (Audra Zacherl)

The Commissioners will consider the resolution to surplus vehicles with individual values more than \$2,500.

Nancy Everson: Commissioners this is the same type of resolution only this one has, these items have a value of more than \$2,500. Again there's three Sheriff's vehicles to be sold at the Sheriff's auction and then there is some collapsible bleachers that the fairgrounds, County Fairgrounds is surplus.

Ron Alles: If you'd like I can speak to the bleachers. These bleachers were donated to the County or to the Fairgrounds many years ago and we believe it was from Carroll College. We have no use for those bleachers but one of our sister counties has expressed an interest in those. We did not purchase them, they are not really of any value to the County so we're suggesting that those bleachers be given to a sister county.

Commissioner Tinsley: Mr. Chair, Commissioner Varone. I spoke with the Commissioner up in Glascoe

I believe is where he is from. They were very eager to get these bleachers and so Ron, I pointed Ron at him and this is where it's come to so I don't have a problem with it, I think it's a good idea.
Chair Murray: I'm not going to presume how you arrived at the gender of counties so is there a motion?

Commissioner Tinsley: So moved.

Commissioner Varone: Second and authorize the chair to sign.

Chair Murray: We have a motion and a second, all in favor of the motion authorizing the surplussing of property and the chair to sign the resolution as well as the titles included signify by saying Aye.

Commissioner Tinsley: Aye

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries.

National Center for Appropriate Technology. (Eric Griffin) (nunc pro tunc action)

The Commissioners will consider the document.

Chair Murray: Commissioners the next item before us is the nunc pro tunc action, the National Center for Appropriate Technology. A grant was written by the Rocky Mountain Development Council for the Augusta Senior Citizens Center to put sun panels on top of the senior center in Augusta that will capture the sunlight and generate electricity that will reduce the electrical costs of lighting the center in Augusta. The Rocky Mountain Development Council came by and the letter accepting it and needed to be signed that day which I did since it was a response to a grant application. I'm asking you this morning to approve my action of signing the letter accepting the solar panels for the Augusta Senior Citizens Center.

Commissioner Varone: So moved

Commissioner Tinsley: Second

Chair Murray: We have a motion and a second, all in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Commissioner Varone: Aye

Chair Murray: Aye. Motion carries.

Public comments on items not mentioned above.

Chair Murray: This is the point in our meeting when anyone member of the public present that wishes to bring up an item not mentioned on the agenda but that the County Commission has authority over, now is your opportunity and there being no one from the public present, we are adjourned.

Adjourn.