

**SUBDIVISION MEETING**  
**October 20, 2005**

Chairman Ed Tinsley called the meeting to order at 10:00 a.m. Commissioners Varone and Commissioner Murray are present. Others attending all or portion of the meeting included, Ron Alles, Jaclyn Grenfell, Sheriff Cheryl Liedle, Janice Frisch, Ray Brown, Mike McKellen, Frank Rives, Michael McHugh, Jake Gruber, Bill Gallagher, Paul Fox, Craig Riley, Jacqueline Lenmark, Jana Gruber, Mark Lambrecht, Frank Smith, Mike Allen, and Maria Penna.

Pledge of Allegiance. Everyone recited the pledge.

Consent Action Items. Ron Alles reported on the following consent items: Vendor Claims Report for the week of 10/17/05 are in the county's budget office and they are available for the public to review there. Commissioner Murray moved to approve this consent item. Commissioner Varone seconded the motion and it carried unanimously.

Memorandum of Understanding. Ron Alles reported this MOU is between the Lewis and Clark County and the Lewis and Clark Search and Rescue organization. This document formalizes that arraignment between the County, the County Sheriff's office as well as the Search and Rescue Organization.

Sheriff Liedle introduced Janice Frisch, the president of the Lewis and Clark Search and Rescue and she has spent a tremendous amount of time putting this together. Also in the audience is Ray Brown, one of the Search and Rescue Coordinators, and Mike Allen who is also a member of the Lewis and Clark Search and Rescue. As a team they have done a tremendous job working on this MOU. This MOU codifies the relationship between Lewis and Clark Search and Rescue and not only the County and the Sheriff's office but between other agencies. It clears up the ownership of equipment and gives them a platform to move forward with capital expenditures.

Janice Frisch stated it is time to move forward on some other critical and business relationships given the passage of the public safety mill levy which is what has moved all of this into the forefront, which is the necessary part of business for the County and for Search and Rescue organization.

Commissioner Varone moved to approve the Memorandum of Understanding with a request to spell out the abbreviation of CIP, and authorize the Chair to sign. Commissioner Murray seconded the motion and it carried unanimously.

Family Exemption Request-Jake and Jana Gruber. (cont. from 10/17/05)

Commissioner Murray moved to deny the family exemption request. Chairman Tinsley seconded the motion.

Commissioner Murray: Mr. Chair, Commissioner Varone. In this instance I believe as the Gruber's Attorney pointed out to us, this is a situation of attempted avoidance rather than evasion, which seems like a harsh word so I want to go on record with using the term avoidance. The Grubers went through a pre-planned conference with our staff and it is kind of what is making the decision for me. Once they were informed of the; it appears once they were informed of what was involved in subdivision and that they had other routes to take they pursued the other routes. I think that's human nature and any resident of Lewis and Clark County possibly would rather avoid subdivision rather than go forward with it. We're charged with enforcement of subdivision regulations. It's a simple process and our Staff will work with the Gruber and I'd ask the Commission when they file for the subdivision request that we try and expedite the process through staff.

Commissioner Varone: Mr. Chair. I think again we have a problem with the document that we use. I've said this I don't know maybe a half dozen times. We have a document that is very, very old that we expect people to fill out and understand and I think at best it's a confusing document. For example, number 5 talks about the history of the parcel, and it's pretty clear it says, "The original tract is the tract of land established as of July 1973. Have any exemptions been used for divisions of the land on the original tract? If so answer yes. And people were honest about that. Then it went on to say, "Was the subject property ever discussed at a pre-application conference submitted for review and/or denied approval as a subdivision? And they properly answered yes. I believe that it needs to go on to say that, and offer an explanation, like Jacqueline Lenmark offered to us earlier this week, that the folks have never done this before, they have no knowledge, they did the right thing, they went into the pre-application conference and when they did they found out that they did have another avenue open to them. And in this instance it seems to be held against them, and I think it's good government for them to do what they rightfully have the right to do. And then if you go on to item number 1-B, it talks about was this a gift or sale to a member of the immediate family under section whatever MCA, and they marked yes. And again, it's one of the items that when circled, even though it's answered honestly could be potentially used against them, and not only that, the same question is asked again in number 10, so that to our Staff means not one but two strikes against them. And the law specifically allows that to take place, and yet, we're using that as a strike against them. And the other two that were used was "does the parcel to be transferred become one of 3 or more parcels that were subdivided, and the correct answer is yes. But, there is also an explanation with that and that those parcels that were transferred off were to other family members, which again can legally be done. And item #6, which was used, does the parcel to be transferred fit a pattern of land division/land transfers? It does and so there's one issue there that maybe, at best, could be questionable. And so I'm going to be voting no to this. I don't think there was any kind of avoidance or evasion. I think there was a little bit of, I hate to use the term, but it's ignorance on the part of the people who are just trying to do the right thing. My biggest concern that we really can't address here has to do, if they're allowed to subdivide is there is a big gas easement that goes right through the property and my concern is where can they put a house adequately if they do subdivide, or if they just transfer it over. That was my concern but that's not what we're considering here today.

Chairman Tinsley: Thank you Commissioners. I would like to state for the record that I appreciate the comments made by the applicant's representative, Miss Lenmark. She made a very articulate case for her applicants, however, I was moved by two issues that the first of which was that the applicants did go to the pre-application hearing and upon finding out the cost that it would take to subdivide, decided to go the route of the family exemption. And the second issue was when they expressed to us in the hearing they would be selling that house and building a new house. That seems to me to take away the whole idea behind the original intent of the family exemption that was put into the law. I believe the family exemption portion of the Subdivision Act needs to be re-looked at, at some point in the future by the Legislature and tweaked for what it was intended to do, and it was intended to parcel off a lot for a family member to move off of the family farm, or family ranch and not as a means to avoid the subdivision process that we have. We have the subdivision process for a reason. It's to protect the health, safety and welfare for our citizens and the public and that's why we have the process. It's not meant to be onerous however, it's probably taken that way sometimes, but that's why we do it. We have to protect our citizens. It's the number one mission of Government, it's the health protection and safety and health of our citizens, so I will be voting to support the denial.

Any further discussion? All in favor of the motion signify by saying Aye.

Commissioner Murray: Aye.

Chairman Tinsley: Opposed same sign.

Commissioner Varone: Aye.

Chairman Tinsley: Motion passes 2-1.

**Gate at Norris Road and Applegate Drive.** (cont from 10/13/05)

Frank Rives: Good Morning Commissioners. I have nothing to say at this point unless you have some questions that you would like me to answer?

Chairman Tinsley: I will let Commissioner Murray to speak to this since this was his agenda item. I don't know if he has been contacted back by the County Attorney yet.

Commissioner Murray: Mr. Chair, I have spoken to the County Attorney to move this from a public access easement to a county road. There is a process in place, a rather lengthy process, which involves advertising. I would move that this be tabled indefinitely from this agenda and be pulled and after working with the homeowners association, put on a later date.

Chairman Tinsley: So is that a motion to table? Or should we just continue it?

Commissioner Murray: Mr. Chair, I'm not sure if we want to table it, continue it or dispense with it at this time and reschedule it at a future date.

Ron Alles: I might add, Commissioners, I also spoke to the County Attorney and over the years, for several years, the County, through it's subdivision process has called new roads Public Access Easements, or Public Roads rather than County Roads and what we want to do as the Staff, rather than address each of these individually it may be more efficient and effective to take a look at all of those and do a blanket resolution that would declare the public roads created through subdivision county roads and give the county the ability to enforce speed limits on those particular roads.

Commissioner Murray: Mr. Chair, Commissioner Varone. Mr. Alles raises a potential issue and that's the enforcement of the speed limits that are on these particular roads. I'm aware of one citation for speeding in the subdivision that was dismissed by the Justice of the Peace because they're not designated county roads. That's why in this unique situation, I would like to visit with the homeowner's representative and possibly take some action on a future agenda item, but not today.

Chairman Tinsley: Ok. Mr. Alles, I need some guidance here. Would you like us to move on to the next item and we'll dismiss with this item until at such time we want to reschedule it?

Ron Alles: Correct.

Chairman Tinsley: Ok. Commissioner Varone do you have any comments?

Commissioner Varone: Mr. Chair, Commissioner Murray. I'm glad to see that we're not going to take any action on this today. I think it behooves us to get together with the folks that are in the homeowners association and hopefully be able to work out something. That's reasonable to both parties so I'm glad that Commissioner Murray is making that motion.

Chairman Tinsley: I don't think there's a motion, I think we're just going to move on to the next item, so, because there was nothing to present.

All right, well next item on the agenda is the North Hills Travel Management Plan. This was continued from September 22, 2005. The Commissioners will consider the recommendation from the citizen working groups for travel management in the BLM's North Hills, Scratch Gravel Hills, and Marysville areas. Mr. McHugh is the Staff person.

**North Hills Travel Management Plan.**

Michael McHugh: Commissioners this is a continuation, I believe the Board of County Commissioners left the hearing opened for public comment. There are actually three travel management plans dealing with the North Hills, Scratch Gravel Hills and Marysville area. The option for the Commissioners is to forward the letters that were prepared by the working groups to the BLM and there's no need to either support any of those actions or amend those actions; just forward those letters to BLM as they are and thank the members of the working group for their efforts in preparing these plans.

Chairman Tinsley: Mr. McHugh, is it also our option to include the testimony that we took at our September meeting?

Michael McHugh: Yes, and that was Staff's recommendation that any testimony that was accepted by the Board of County Commissioners be included in any memorandum or letter that would be forwarded to BLM.

Chairman Tinsley: Thank you very much. Questions for Staff? If not is there a motion?

Commissioner Varone: Mr. Chair, I make a motion to transfer all of the work that was done by the three committees; the letters, and the e-mails that we received and a copy of the transcript that took place during the Public Hearing and authorize Chair to sign any documents that need to be signed.

Commissioner Murray: Second.

Chairman Tinsley: We have a motion and a second. Any discussion? All in favor of the motion signify by saying Aye.

Commissioner Murray & Commissioner Varone: Aye.

Chairman Tinsley: Aye. Motion passes 3-0. Thank you Mr. McHugh for your hard work. We appreciate it.

Michael McHugh: Thank you.

Chairman Tinsley: Next item on the agenda is the NACo, which is the National Association of County Prescription Card Contract. The Commissioners will consider the agreement with AdvancePCS Health, L.P. One of our NACo representatives is Commissioner Murray and he is going to speak generally to the program. Commissioner Murray.

### **NACo Prescription Card Contract.**

Commissioner Murray: Mr. Chair, Commissioner Varone. The advantage of the consumer prescription cards is that it will save consumers, that don't have other health plans; it will save them up to 20%. Most pharmacies in the Helena area participate in this card. By going ahead and advocating the card, by having the cards printed and offered to the public, it will save the public funding. If you have health services and a prescription plan under your current health service it's probably not going to benefit you that this card cannot be used with other prescription benefits. But, for those individuals in our County, perhaps Senior citizens, individuals that do not have health insurance, this will save you 20% on your prescription purchasing at local pharmacies. So it's a great benefit for the residents of Lewis and Clark County. I strongly advocate that the County participate in this program.

Chairman Tinsley: Commissioner Murray, one thing. I sat in a meeting at our last MACo meeting about this and I do recall that people with prescription drug programs, or health care programs may be able to benefit. They can't use their insurance benefit that they have, but if it's

cheaper to buy a certain drug with this card it may not be covered by their prescription drug benefit and then they would be able to save. They just can't combine this with their insurance so I think it could even help people that do have insurance.

Commissioner Murray: Thank you for pointing that out Mr. Chairman; you're correct in that, yes.

Chairman Tinsley: Commissioner Varone do you have any discussion or would you like to wait until we have the motion?

Commissioner Varone: No I'm fine you covered it.

Chairman Tinsley: Is there a motion?

Commissioner Murray: Mr. Chair, I would move the Lewis and Clark County go ahead and enter into the program with the with the Montana Association of Counties and the National Association of Counties to offer the prescription cards to residents of Lewis and Clark County and authorize the Chair to sign.

Commissioner Varone: Second.

Chairman Tinsley: We have a motion and a second. Discussion? I would like ask that we do a public roll out of this to give the public an opportunity to know about it, know it's available and know where they can get the cards, etc. When Cascade County did theirs they generated a lot of press and that was helpful in getting the program up and running on it's feet, so I hope we will do the same thing.

Ok we have a motion and a second. All in favor of the motion signify by saying Aye.

Commissioner Varone & Commissioner Murray: Aye

Chairman Tinsley: Aye. Motion passes 3-0

Last item on the agenda is public comments on any items not mentioned above. Any public comment on any items not mentioned above?

**Public comments on matters not mentioned above.**

Chairman Tinsley: Seeing none we stand adjourned

**Adjourn.** Adjourned at 10:25 a.m.