

DRAFT – NOT APPROVED BY BOCC

SUBDIVISION MEETING
November 3, 2005

Chairman Ed Tinsley called the meeting to order at 9:00 a.m. Commissioner Murray and Commissioner Varone are present. Others attending all or portion of the meeting included, Ron Alles, Audra Zacherl, Dave Morey, Robert & Judy Paynter, Glenn & Julie Hayes, Michael McHugh, Tamara Laib, Lindsay Morgan, Mary Sanford, Paulette DeHart, and many friends and family of Mary Sanford, Dean Retz , Judy Will, and Maria Penna.

Pledge of Allegiance. Everyone recited the pledge.

Chairman Tinsley: For the first part of our meeting, I'm going to dispense with our normal introductions. I will introduce Treasurer/Clerk & Recorder, Paulette DeHart to move to the podium and read a resolution on behalf of a very special person. And I would like her to join us, if she would. She's the "Birthday Girl" as we like to refer to her this week, Mary Sanford. (Clapping). And Mary, we also have a very special guest that's going to come here to say hello to you this morning too. Governor. (Clapping)

Governor Schweitzer: Well, on a 45th birthday like this, there's something that I would like to do. Now these bolo ties that I wear they look OK on a Governor, but I tell you they look beautiful on a beautiful woman. Now this tie is made in Montana at the Montana Silver Works, and it actually has the seal that the State of Montana has in the Capital. Every door knob in the Capital has this seal on it. And I would like to present this to you today, Mary. Now, see how nice that looks on black? (Clapping). So, it doesn't bother me, it means today I won't be wearing a tie. (Laughter). Unless John Bolinger will give me one of his bow ties. (Laughter). So let's hear the proclamation.

Paulette DeHart: I'm going to try really hard not to cry Mary.

"Lewis and Clark County Proclamation – A Milestone Birthday Celebration. Whereas Mary Louise Moore was born in Dallas, Texas, the oldest of three children to Curtis and Mary Moore. Mary's dad used to call her feisty and whereas Mary married Bill Sanford in 1951 and they had 3 children, Curtis, Sandra and Porter. She has 6 grandchildren. Mary and Bill took a trip to Montana to get away from the heat of Texas. They fell in love with the state and came back in 1954; and

Whereas, their first apartment was in a home owned by Alice Schmidt Otten who became a lifelong member of the family. It was located on the corner of Clarke Street right across from where she works today; and

Whereas, when Mary came to Helena, she went to First Bank and applied for a bank account. During the interview for an account, they found out she worked in a bank in Texas and hired her on the spot. She worked for First Bank for 35 years; and

Whereas, Mary always loved to work with numbers. When she was hired by Lewis and Clark County in 1990, she got to continue working with numbers. Mary loves to work for Lewis and Clark County and would love to die on her way to work; and

Whereas, Mary always wanted to write a book. Instead of a book, she's written volumes of works of encouragement through notes and letters; and

Whereas, Mary is a lifetime member of the Presbyterian Church. She has taught Vacation Bible School and high school youth groups. She worked with Camp Fire Girls, 4-H, and Cub Scouts;

and, Whereas, a little known fact about Mary is she still sets her hair in pin curls. She loves Pearl Bailey, Carol Channing, jazz and musicals; and

Whereas, anyone who knows Mary knows if they are feeling down they can go to Mary's office and get a hug and a prayer, which always picks them up. Her faith in God has been her strength through life's trials and she is so grateful to all the friends God has put in her life; and

Whereas, we wish you the very best and many more as you celebrate your 80th Birthday on November 2nd; and

Now, Therefore, Be it Resolved, by the Lewis and Clark County Board of Commissioners hereby proclaim Thursday, November 3, 2005 as Mary Sanford Day in Lewis and Clark County. (Clapping)

Chairman Tinsley: Mary we received special dispensation from the Governor to name that day for you today.

Mary Sanford: Thank you.

Chairman Tinsley: Congratulations and Thank you Governor. Mary do you have anything you'd like to say?

Mary Sanford: I'd like to say thanks to all of the wonderful people I work with. I'm just so blessed to know so many neat, neat, people and to be able to work for them. It's been such a joy. Thank you.

Chairman Tinsley: Thank you. (Clapping)

Chairman Tinsley: All right. We'll get back to our normal course of business. I'm County Commissioner Tinsley. To my left is Anita Varone, Commissioner. To her left is Maria Penna, who's dabbing her eyes. Even though she was a Marine. (Laughter). To my right is Commissioner Murray. To his right is Ron Alles our Chief Administrative Officer and to his right is Jerry Grebenc our Director of Community Development and Planning. First item on the agenda this morning are Consent Action Items. Mr. Alles.

Consent Action Items.

Ron Alles: You have six (6) items since we pulled the proclamation off.

- a. Vendor Claims Report for the week of October 31, 2005. (Audra Zacherl)
- b. DPHHS. Community Operating Plan and Annual Agreement for Public Assistance services in Lewis and Clark County, Northern Jefferson County, and Broadwater County. I believe Mr. Morey is here to speak to that if you'd like to pull that off.
- c. MDT. South Helena Interchange Memorandum of Agreement, Funding Supplement No. 1. If you would recall you passed the Memorandum of Agreement several weeks ago. This is a supplement, which includes the financial package, and I can speak to those items if you would like.
- d. Letter to Trust for Public Land. By submitting this letter to them we are requesting their assistance to I guess poll the County, give us some advice in terms of what we ought to do or might do in terms of retaining agricultural lands in Lewis and Clark County. And I believe Mr. Bower is here if you would like to speak to that.
- e. Contract and Encroachment Agreement. Robert and Judy Paynter, in Lincoln. It's to run a sewer line across County right-of-way.
- f. Contract and Encroachment Agreement. Glenn and Julie Hayes. It's to allow their pasture fence to encroach within the County right-of-way within Lyons Creek.

Chairman Tinsley: Thank you Ron. Would the Commission like to remove any of the items from the Consent Action Item agenda and consider them separately?

Commissioner Varone: Mr. Chair I'd like to set aside Item C and allow Dave Morey an opportunity to speak and I would also like to set aside Item E to allow Andy Bower to speak.

Chairman Tinsley: Any further items? Without objection Commissioners you now have before you Consent Action Items A, D, F, & G. Is there a motion?

Commissioner Varone: So moved and authorize Chair to sign.

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 Varone & Commissioner Murray: Aye.

Chairman Tinsley: Aye. Motion passes 3-0.

Chairman Tinsley: Mr. Morey welcome. Come on up and. Audra, Thank you. I will point out that the vendor claims are in Audra's office if anybody would like to take a look at them this week. Thank you. Mr. Morey.

Dave Morey: Commissioner Tinsley, Varone and Murray. Thanks for the opportunity to speak. I'm here to ask for your support of the Community Operating Plan and Annual Agreement for Public Assistance Services in Lewis and Clark County. This also includes Broadwater and Northern Jefferson County. I'm hear to answer any questions you might have about the plan and if you will allow me I would like to make a couple of comments, point out a couple of changes that have happened in the plan.

Chairman Tinsley: Please do.

Dave Morey: The most significant change to the plan is that it is now a 3-year plan. On the top of the first page you'll notice the dates are October 1 2005 through September 30, 2008. This was the result of a recommendation by the Legislative Auditors. And the Department agreed to do that. It is subject to modification at anytime by request of the Commissioners and it is also subject to annual renewal even though it is a 3-year plan. There are some other minor changes that are programmatic but there is nothing significant in terms of major changes in the way we are operating the office of Public Assistance. So if you have any questions I'd be glad to attempt to answer.

Chairman Tinsley: Questions for Mr. Morey? Commissioner Murray.

Commissioner Murray: Mr. Chair, Commissioner Varone, Mr. Morey. Would you speak to the state of poverty in our County or in the 3 County area your office serves, please?

Dave Morey: I can, to a limited degree because poverty is a very wide and deep issue and I can't claim to have all of the numbers and the whole scope of the situation. Public Assistance programs do go beyond our office provides including subsidized housing, _____, child care and so forth and so on, but in many cases the same people we serve also receive those services so, having qualified my answer a little bit, I can refer you to the first question on the first page where it asks to describe caseload trends or unusual expenditures. I present some very superficial statistics stating that the caseload for the entire service area meaning Broadwater and Northern Jefferson and all of Lewis and Clark County has remained steady although it has

increased slightly. So by steady I mean it hasn't increased significantly. For Lewis and Clark in particular, I abstracted some information in anticipation that you might ask this question. For Lewis and Clark County in particular, and this is for April of this year which is the last month I have solid statistics for, there's a lag time. In Lewis and Clark County there were 4556 Medicaid recipients. Medicaid being the low-income health insurance program. That means that those are people who actually received reimbursed services for health services through Medicaid. There was at least that many who were eligible for Medicaid and likely more, meaning that the remainder are those who are eligible for Medicaid but did not receive any medical services in that month. So I can tell you, and I don't have them with me, the actual number of cases but 4556 of our fellow citizens of Lewis and Clark County received Medicaid services at that time, in April. So I would assume it is a similar number today, it doesn't fluctuate wildly, although it does fluctuate slightly. For food stamps, there were, in the same month, 4254 individuals who received food stamp benefits in Lewis and Clark County. That was within 1891 cases, meaning that it's typically a family meaning mom, dad, kids in a case. So 4254 individuals were eligible for and received food stamp services. For temporary assistance for needy families, the cash assistance and employment program, we had 623 individuals in that month who received services from 245 cases. In that case meaning 245 families because that's a family based program. So if you take those numbers say a percentage of the total population of Lewis and Clark County, I'm just doing this off the top of my head, we're over 10% who, that we know of, who are in poverty, because we know they received services from the poverty program. There are likely more, are department is embarking on an out-reach program. It's estimated that State wide, I don't know about this County, but state wide only about 60% of Montanan's who are eligible for food stamps actually receive food stamps. For a variety of reasons some people don't want anything to do with the government, or from any programs, some don't know, and some we just haven't reached yet. I hope I'm going in the direction of answering your question, by way of this information.

Commissioner Murray: Commissioners, I want to point out that Mr. Morey serves on what we call the Human Service Task Force. Our County levies 3 mills that is used for support, social service programs in Lewis and Clark County that provide aid to the needy. Mr. Morey is on the task force that advises us how the money should be spent in our County and I appreciate Mr. Morey's service on that task force.

Dave Morey: Thank you Commissioner.

Chairman Tinsley: Thank you Mr. Morey. Is there a motion? Or are there any further questions? If not, is there a motion?

Commissioner Murray: Mr. Chair, I move that we sign the agreement Mr. Morey has presented to us, or authorize the Chair to sign the agreement and adopt it for a 3 year period.

Commissioner Varone: 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 unanimously. 3-0. Thank you Mr. Morey. You have perhaps one of the most difficult and one of the most important jobs in this County and we appreciate your service. Thank you.

Dave Morey: Thank you and it's also one of the more rewarding jobs too.

Chairman Tinsley: Will you provide us a signature sheet?

Dave Morey: Yes, I have it here.

Chairman Tinsley: Ok, why don't you just bring it up and we'll have it done and we will get it back to you. Thank you Mr. Morey.

Chairman Tinsley: Next item on the agenda is the letter to the Trust for Public Land. This is a request for technical assistance for acquisition of conservation easements. We have with us today the Director of the Prickly Pear Land Trust Mr. Andy Bauer. Andy, please join us.

Andy Bauer: Good Morning Commissioners. Thank you for having me today. The letter that you have before you simply asks the Trust for Public Lands to do some research on your behalf to find out the, or research the potential tools out there, voluntary tools, I just want to reiterate that, for agricultural property owners, to protect agricultural lands in Lewis and Clark County. As you may know a recent study found Lewis and Clark County out of all of the Counties in the Rocky Mountain Region was the 5th most threatened County as far as loss of agricultural lands. And you also know that you're seeing quite a bit of activity out in the Helena Valley at least as far as new proposals for housing, and not to say that those are not, not to make any comment on those proposals but that they're coming fast and strong and that we would like to be able to find ways to provide land owners other options, if they would like to be able to stay on their lands. So this letter, Trust for Public Land, is an organization that has been around for many years and actually has a department that works with communities that do this sort of thing and we're asking for you to sign the letter to begin the process to request their assistance.

Chairman Tinsley: Thank you Mr. Bauer. Are there any questions?

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: One question and a comment, if I may. First is a question. Andy, is there going to be any kind of a cost for this?

Andy Bauer: Only if you would like there to be. Honestly there is a cost, we hope to raise the money privately to do this. If there was any available funding from the County, it would show the County is strongly behind this. Obviously with budget restraints that might be difficult, but there is a cost, probably in the \$15,000.00 range. We're working with private donors to be able to fund this effort.

Commissioner Varone: Thank you. Mr. Chair, I plan to make a motion to approve this letter, but there is a portion of it that I would like to read, and it's just a sentence, part of a sentence that says "this information would include understanding Lewis and Clark County residents' priorities and attitudes regarding land conservation and how the residents would respond to different methods of presenting those issues." I think that sentence, in and of itself, is a perfect example of how Andy and Prickly Pear organization has worked with the community to try to establish a partnership to help us move forward on collecting the kinds of public space that we so dearly need and like around here. And I just wanted to make a point of that. And also if I could Mr. Chair, that same paragraph, if we agree to sign this, I hope we will. The last sentence talks about to my attention and I understand if we could just change that to the collective, we and our then all 3 Commissioners I think would be agreeable to sign the letter.

Chairman Tinsley: And we'll make those corrections, if there's no objections? Commissioner Murray.

Commissioner Murray: Mr. Chair, Commissioner Varone. Commissioner Varone I would ask that you, at the next, our representative at the Park Board, I would ask at the next meeting that

you ask the Park Board if their interested in donating some money to funding this agreement for the trust.

Commissioner Varone: I'd be more than happy to do that, do you think we could get that on the agenda?

Chairman Tinsley: Great. Is there a motion?

Commissioner Varone: Mr. Chair, I make a motion to approve the letter to the Trust for Public Land that requests technical assistance for acquisition of conservation easements and authorize all 3 of us to sign.

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 Varone & Commissioner Murray: Aye.

Chairman Tinsley: Aye. Motion passes 3-0. Andy, we'll get those corrections made and you will have the letter some time today, I'm assuming.

Andy Bauer: Thank you very much.

Chairman Tinsley: Ok. Next item on the agenda, that's it for the consent items. Next item on the agenda is Item #3, proposed Minor Subdivision, Preliminary Plat to be known as the Big Valley Lot 107/A Subdivision. The Applicants are Terry and Judy Will. The Planner is Michael McHugh. This was continued from October 25th and this is decision day. Mr. McHugh. Mr. McHugh, if you wouldn't mind, I understand there are some variances with this, would you just give us a brief synopsis of what we're dealing with?

Proposed Minor Subdivision, Preliminary Plat to be known as the Big Valley Lot 107/A Subdivision.

Michael McHugh: Commissioners the Applicant requested 3 variances from County Subdivision Regulations. One of the requested variances was not to be required to build the internal access road and to be able to bond for it. It's already in our subdivision regulations that Applicants can do the final plat and then bond for the needed improvements, and that they would be required to complete those improvements within 1 year of the bond, initial bonding period. So that requested variance is not relevant, it's a moot point at this time.

The other 2 variances that the Applicant requested were not have to bring Prairie Road from the intersection of Green Meadow westward to the west point of Lot A up to County Standards, and also not to be required to construct Clear View Court up to County Standards. Clear View Court was part of the subdivision that was approved in 2002 and at that time the road was constructed to County Standards and subsequent to that in February of this year, the County adopted new road standards that requires different types of fill materials and different depths on it. As far as Prairie Road, Prairie Road is in an RID, it's a maintenance RID, it doesn't do any improvements, so the road is substandard both to the old and the new regulations, but it is being maintained, and I believe that there is an \$80.00 per lot per year fee that's paid for the maintenance of the main roads within that larger RID district.

Chairman Tinsley: Two questions on my part Mr. McHugh. So the first one is regarding the variance for the new road in the subdivision, the one that we talked about is not necessary at this time. Do we still need to act on it or can we just dismiss it?

Michael McHugh: No, there's Staff's recommendation that there be no action.

Chairman Tinsley: OK.

Michael McHugh: I mean it's stated in the Subdivision Regulation that there is that opportunity. The two other variances if you were to grant the variances you would have to either delete or amend conditions #6 and #7 and both of those conditions, condition #6 requires improvements on Prairie Road and Condition #7 deals with improvements on Clear View Court.

Chairman Tinsley: If the subdivision is passed this morning, by virtue of the waiver of the right to protest, the Applicant and future owners automatically become enrolled or members of the RID automatically, or is there some kind of process that needs to happen?

Michael McHugh: They would be added to the existing road maintenance agreement. If the County wish to initiate an improvements district to bring, that's when the waiver would be enforced at that time.

Chairman Tinsley: All right. Any questions of Staff?

Commissioner Murray: Mr. Chair?

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Mr. Chair, Commissioner Varone, Mr. McHugh. If we approve the waiver for Prairie Road, do we then need to add a condition that they waive their right to protest joining the RID? Or is that automatically assumed?

Michael McHugh: That covenant that requires a waiver of protest is already included in the draft Conditions of Approval. I believe it's Condition 14-C, and that reads "a road maintenance agreement and a waiver of right to protest joining road maintenance in accordance with the County Subdivision Regulations."

Commissioner Murray: Thank you.

Chairman Tinsley: The first variance request for Clear View Court north of the subdivision not to bring up to County Standards. Is there a motion?

Commissioner Murray: I move the variance request be denied.

Chairman Tinsley: We have a motion to deny, is there a second? Is there a second? I'll second the motion. Discussion?

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair I had an opportunity, I was gone last week during the Public process, had an opportunity to read the minutes and want to thank Maria for expediting that for me. Went out to look at both of the properties and with your approval I'll participate this morning.

Chairman Tinsley: Absolutely. I apologize, I was going to bring that up to you publicly and I know it was on the record and you were given the minutes. It was requested by both Applicants this morning, but absolutely thank you.

Commissioner Varone: Thank you. And then if I could comment on the variance. Because this was brought up to standard not that long ago I'm going to be voting on the negative to deny. I believe that as the process moves forward once we adopt regulations people are up to standard a year or two ago, there has to be some sort of mechanism in place where we can grandfather or gradually move to where we need to move and I think this is a perfect example of what puts us as Commissioners between a rock and a hard place. And unfortunately the Applicants are the ones that suffer, where there's a road that's in perfectly good condition been brought up to standard by another Applicant and now they're going to be required to make it even different in such a short period of time. I don't know what the solution is but just a comment on my part.

Chairman Tinsley: Thank you Commissioner. Further discussion? We have a motion and a second to deny the variance for Clear View Court. All in favor of the motion signify by saying Aye.

Commissioner Murray & Chairman Tinsley: Aye.

Chairman Tinsley: Opposed same sign.

Commissioner Varone: Aye.

Chairman Tinsley: Motion passes 2-1.

Chairman Tinsley: Next item before us is the variance request for Prairie Road not to be built to County Standards. Is there a motion?

Commissioner Murray: Mr. Chair, I move approval of the variance request for Prairie Road.

Commissioner Varone: Second.

Chairman Tinsley: We have a motion and a second to approve. Any discussion?

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, what I would like to see is Staff to do is maybe get together with those folks again instead of a maintenance agreement add to it a repair, how the road is in horrible condition.

Chairman Tinsley: Thank you Commissioner. Any further discussion?

Commissioner Murray: Mr. Chair?

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Mr. Chair, Commissioner Varone. I think Prairie Road is one of the better roads out there compared to Applegate North, so rather than saying it's in horrible condition, it's in poor condition, but it is one of the better roads at the moment.

Commissioner Varone: I guess the reason that I say that is that I bottomed out in my car. (Laughter).

Chairman Tinsley: Any further discussion or funny interjections that anybody wants to make? All in favor of the motion signify by saying Aye.

Commissioner Varone & Commissioner Murray: Aye.

Chairman Tinsley: Aye. Motion passes 3-0.

Chairman Tinsley: Commissioners you now have before you the Big Valley Lot 107-A, a minor subdivision with 17 Conditions of Approval. Since one of the variances was passed we do need to adjust one of the conditions.

Michael McHugh: You would need to delete Condition 6 or to amend it.

Chairman Tinsley: You heard it from Staff. Are there any, is there any discussion or any amendments?

Commissioner Murray: Mr. Chair, I would move approval of the subdivision subject to the 17 conditions that's proposed by Staff.

Commissioner Varone: Second.

Chairman Tinsley: We have a motion and a second. Now, are there any amendments?

Commissioner Murray: Mr. Chair I would move we amend Condition #6 to reflect our action on the requested variance.

Commissioner Varone: Second.

Chairman Tinsley: We have a motion and a second to amend Condition #6. Any discussion? All in favor of the motion signify by saying Aye.

Commissioner Murray: Aye

Chairman Tinsley: Aye. Motion passes. Any opposed?

Commissioner Varone: No. I just have to follow my line of thinking.

Chairman Tinsley: So motion passes 2-1.

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Was that the motion just on item 6?

Chairman Tinsley: That was item # 6 to amend.

Commissioner Varone: Ok.

Chairman Tinsley: Any further amendments or discussion? Commissioners you now have before you the proposal for the Big Valley Lot 107-A Minor Subdivision with...

Michael McHugh: 16 Conditions.

Chairman Tinsley: 16 so by virtue that we deleted it. 16 Conditions of Approval as amended. All in favor of the motion signify by saying Aye.

Commissioner Varone & Commissioner Murray: Aye.

Chairman Tinsley: Motion passes 3-0. Are the folks here this morning? No. Ok.

Chairman Tinsley: Next item on the agenda is a proposed Minor Subdivision, Preliminary Plat to be known as Amended Plat of Lot 11A2B, Big Valley Subdivision. The Planner is Lindsay Morgan. The Applicants are Myron and Tamara Laib. Miss Morgan, would you please speak to variance, I think there is only 1 variance request?

Proposed Minor Subdivision, Preliminary Plat to be known as Amended Plat of Lot 11A2B, Big Valley Subdivision.

Lindsay Morgan: Good Morning Commissioners. There are actually 2 variances that have been requested. 1) Cooley Court is a dead-end road in excess of 700 feet in overall length and 2) the second variance is Cooley Court and Jeanne Road are both constructed to the old County Standards which was Typical Section #3, our Gravel Standard. Cooley Court was constructed to that standard within the last few months, and Jeanne Road was constructed to that standard probably a year ago.

Chairman Tinsley: Jeanne Road is the second one, correct? The second variance? This is the packet that I had the other morning.

Lindsay Morgan: Jeanne Road and Cooley Court the actual road construction is a variance in itself. It's one variance. The construction of that road.

Chairman Tinsley: What was the second one? Because I don't have the second one in my packet.

Lindsay Morgan: Cooley Court is a dead-end road in excess of 700 feet.

Chairman Tinsley: That's right. Any questions for Staff? First one we will bring up is the road construction for Jeanne Road, variance request, is there a motion?

Commissioner Varone: Mr. Chair, I make a motion to approve the variance request.

Chairman Tinsley: We have a motion to approve. Is there a second? Is there a second?

Commissioner Murray: Second. Discussion?

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Mr. Chair, Commissioner Varone, Miss Morgan. There is a waiver of the right to protest joining a RID.

Lindsay Morgan: That's correct and also we have another subdivision on Jeanne Road that has been submitted and I'm almost done with the Staff report and they're actually going to upgrade all of Jeanne Road to the new standards.

Commissioner Murray: Miss Morgan do we need to add a provision that the Applicants here will participate to the extent of 2 lots in the proposed upgrade of the road? By granting this variance do we negate their responsibility to participate in the upgrade? Proportionately?

Lindsay Morgan: I'm going to look to Jerry for advice on this.

Jerry Grebenc: Mr. Chairman, Commissioners. You could certainly add a Condition of Approval that says if Jeanne Road is upgraded by subsequent developer the Applicants pay a

pro-rata share of the development costs for any of those roads.

Commissioner Murray: Mr. Chair, Commissioner Varone. By approving the variance do we lose our ability to do that or is that just a second step that needs to be added that pro-rata they participate in the upgrade?

Jerry Grebenc: I think it would be a second step. It would be an additional Condition of Approval. If you grant the variance you could add another Condition of Approval that basically requires them to reimburse the developer of another subdivision. We get into questions of timing. The Applicants could complete their subdivision theoretically in a month and the upcoming subdivision could happen in 2 or 3 years, so how do you deal with those time issues is difficult.

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, Commissioner Murray. I recall that occasionally we have done that in the past and what it does is it raises a flag for the folks that live out there, in addition to our staff that when work is done that there is an obligation when that time comes. I think that's a reasonable addition to the Conditions of Approval.

Jerry Grebenc: I think the difficulty becomes is, if the road work hasn't been done and the subsequent subdivision hasn't been granted preliminary plat approval, it maybe a year or two out, it's how do you determine what the roads going to cost, how much does the current developer pay. That's the difficulty I would see. You could put the Condition of Approval in place but if they final plat prior to the other person coming in, I would just don't know how you would set an amount.

Lindsay Morgan: On other thing I'd like to point out is that Mr. Retz is also the representative for the Applicant for that other project where Kim Smith will be upgrading all of Jeanne Road so maybe Dean could actually speak on that, since he's representing both Applicants.

Chairman Tinsley: I believe we're past the point of taking any more comment to consider, so I don't know that we...

Commissioner Murray: Mr. Chair, I was trying to ask for the unusual step especially with the motion pending, that if it's agreeable with the condition that we allow Mr. Retz to speak to our, hopefully, or proposed action. But that would be a Commission decision.

Commissioner Varone: Mr. Chair, I think that the more information we have available to us is when we make the decision is better, so I'm agreeable.

Chairman Tinsley: Mr. Retz, do you care to address the narrow focus of this particular point?

Dean Retz: Thank you Mr. Chairman, Commissioners Murray and Varone. My name is Dean Retz, I reside at 155 All Sports Court, and Miss Morgan is correct I do represent Mr. Smith. His hearing will be before the Consolidated Planning Board on Tuesday, November 15th and we have discussed this before, like Mr. Grebenc said, this is something we look to do. Mr. Smith, assuming it is approved, plans to go forward ASAP, so because he is also the developer and the road builder he has discussed with the Laib's what we have talked about, so we have no problem at all, #1 in a pro-rata, and again I don't think that timing would be an issue because they're both going to proceed right away. That answer your question?

Commissioner Murray: Thank you Mr. Chair, Mr. Retz.

Chairman Tinsley: Thank you Mr. Retz.

Dean Retz: Thank you.

Chairman Tinsley: Any further discussion or questions. The one before us now, that we've got the motion on currently is the road construction for Jeanne Road, is that correct?

Lindsay Morgan: And Cooley Court, all in one.

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

Commissioner Murray & Commissioner Varone: Aye.

Chairman Tinsley: Opposed same sign. Motion passes 3-0.

Commissioner Murray: Mr. Chair I would move that a additional, well, I'm away ahead of myself, I guess maybe to deal with the variances before I ask that a additional covenant be added dealing with the pro-rata share.

Chairman Tinsley: Well, we'll get to that in just a moment. Now the next item before us is the variance request dealing with the dead-end with Cooley and would you give us the specifics on the cul-de-sac- again? The copy is very, very hard to read.

Lindsay Morgan: I'm sorry. I can read this from the Staff report. With the inclusion of the proposed road extension, Cooley Court will be approximately 730 feet in overall length from Jeanne Road, but because Jeanne Road is currently a dead-end road as well, the total road length will actually begin at Applegate. The distance is approximately 1970 feet in overall length. And then one thing, I guess, to note is that the developer, Kim Smith, for the subdivision that is also along Jeanne Road is actually going to provide connection with Jeanne Road to Rancho Deluxe Drive which is going to be the western most road running north and south in the North Star PUD when that's final platted.

Chairman Tinsley: That makes this a, basically a temporary variance?

Lindsay Morgan: Well, the variance, this Cooley Court will still be 730 feet in overall length from Jeanne Road so.

Chairman Tinsley: 30 feet more than the subdivision regulations.

Lindsay Morgan: Exactly.

Chairman Tinsley: Ok. Any questions from Staff? Is there a motion?

Commissioner Varone: Mr. Chair, I make a motion to approve the variance.

Chairman Tinsley: We have a motion to approve. Is there a second? Is there a second? Motion dies for a lack of a second.

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: If I could comment please. It just seems to me that this is kind of a

timing issue and Kim Smith would have come before the Applicants that we are hearing now, the issue before us would be granting a variance for 30 feet and so I guess I'm a little bit confused about why this dies for a lack of a second. Would it be appropriate that it dies for a lack of send then when we hear Kim Smith's proposal, if that passes, for the Applicant to come back and then ask for a variance again after that for 30 feet?

Chairman Tinsley: It's my understanding that if and when Mr. Smith does do what is apparently claimed going to be done, the Applicant can come back in and ask for a modification of conditions, is that correct?

Lindsay Morgan: The Applicant could come back and request for that variance again but no matter what, the Applicant will need a variance for that additional feet. So I don't know if it's possible to grant a variance based on the 30 feet or having them come back at a later date requesting that.

Jerry Grebenc: Mr. Chair, Commissioners. If the Board doesn't grant the variance, you either need to deny the subdivision or require the Applicant to reduce the length of the cul-de-sac. Because if you don't grant the variance it's not in compliance with the subdivision regulations. There either needs to be mitigation or the alternative is for you to deny the subdivision.

Commissioner Varone: Mr. Chair, question?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, Commissioner Murray. So if we ask them to reduce the length of the road by 30 feet?

Jerry Grebenc: Which is in your prevue, you can do that.

Commissioner Murray: Mr. Chair, Commissioner Varone.

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: I think the subdivision is fine. As you cannot commit my, how I'm going to vote on the future subdivision, but I believe this variance request will become moot within a couple of months and could be modified. I don't agree with Staff that for a period of a couple of months denial of this variance request is a showstopper. If we're going to grant requests for variances we certainly ought to change the regulation on 700 feet. As you grant variances you give up the condition that exists.

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, Commissioner Murray. When the subdivision regulations were adopted and the 700 foot length was included, I felt that was onerous for County regulations and believe that the 1000 feet was more than a reasonable amount, and I think that this is a perfect example of how we're seeing that 700 feet negatively impact the expansion and the ability of Applicants to subdivide their property. And for 30 feet I just believe that that's a reasonable request for a variance.

Chairman Tinsley: Are there any further motions regarding this variance? We need to take an action on the variance itself.

Commissioner Murray: Mr. Chair, I move we deny the variance request.

Chairman Tinsley: We have a motion to deny the variance request. Is there a second?

Chairman Tinsley: Second. The motion has been made and seconded. Discussion? Any further discussion? All in favor of the motion signify by saying Aye.

Commissioner Murray & Chairman Tinsley: Aye.

Chairman Tinsley: Opposed same sign.

Commissioner Varone: Aye.

Chairman Tinsley: Motion passes 2-1.

Chairman Tinsley: Now Commissioners, we have before us the proposed Minor Subdivision, Preliminary Plat to be known as Amended Plat of Lot 11A2B, Big Valley Subdivision with 16 Conditions of Approval. One variance request has been approved, one has been denied. Lindsay and or Jerry do you want to give us some kind of?

Lindsay Morgan: I have a couple of quick comments on the Conditions of Approval. Condition #11C: In talking with the Applicants representative and in examining the drainage wells on the property Staff doesn't have any issue with amending Condition 11C to state that the "drainage easements have to be dedicated 15 feet from the center-line of both side of each drainage swale as apposed to 30 feet, so it would be 30 feet total for each of those instead of 60 feet total.

Chairman Tinsley: Is there a motion to that affect?

Commissioner Varone: So moved.

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. Item number 11C has been changed from 30 feet from centerline to 15 feet from centerline. Any further comments from Staff? Jerry.

Jerry Grebenc: Mr. Chair, Commissioners. I guess in essence with the denial of the variance of the cul-de-sac the Applicants are, depending on your decision are going to have to move the lot line of the cul-de-sac 30 feet in order to comply. I mean I just want to make sure everybody understands that to be in compliance with that regulation that's what needs to take place.

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, Commissioner Murray. If that's the case and we approve this application does the Applicant then have to come back to us for anything? Can they just move it 30 feet and they're ready to go?

Jerry Grebenc: Mr. Chair, Commissioners. I think that the, the more I think about it, the denial of the variance in essence they have to move the lot lines in the cul-de-sac, I mean that's the

bottom line to be in compliance with the subdivision regulations and we've got it on the record.

Chairman Tinsley: So we don't have to make it formal?

Jerry Grebenc: I don't think so, no.

Chairman Tinsley: That was done by virtue of the variance denial. Any further amendments to the conditions? Or discussion? Any further amendments to the conditions? Or discussion? Commissioners you have before you the proposed Minor Subdivision, Preliminary Plat to be known as the Amended Plat of Lot 11A2B, Big Valley Subdivision with 16 Conditions of Approval as amended. All in favor of the motion signify by saying Aye.

Commissioner Varone & Commissioner Murray: Aye.

Chairman Tinsley: Opposed same sign. Motion passes 3-0. Thank you Lindsay. Thank you for your time this morning.

Chairman Tinsley: Next item on the agenda is Public comments on any matters not mentioned above. Are there any public comments on any matters not mentioned above? Seeing none, we stand adjourned.

Public comments on matters not mentioned above. None

Adjourn. Adjourned 9:47 a.m.