

PUBLIC MEETING
April 23, 2002

Vice-Chair Anita Varone called the meeting to order at 9:00 a.m. Commissioner Loendorf was present. Commissioner Murray was absent attending to other county business. Others attending all or a portion of the meeting included Sharon Haugen, Ron Alles, David Modde, Jerry Grebenc, Michael McHugh, Andy Adamek, Ann Pierce, Bill Ries, David Brown, Robert Hudnall, James E. Nichols, Bob Drake, Jack Myles, Connie Johnson, Julie O'Connor, Betty Myles, Judy Balcerzak, Elaine Myles, Roseann Crawford, and Carole Byrnes.

Pledge of Allegiance. Everyone recited the pledge.

Petition to Annex the Black Eagle Minor Subdivision into the Existing Rural Improvement District (Lime Kiln Road and South Hills Drive RID). The applicant has proposed a petition for the purpose of maintaining the Lime Kiln Road and South Hills Drive. This proposal is located in the NE1/4 of Section 5, T9N, R3W. Sharon Haugen reported that the petitioners are Cynthia and Jim Utterback and wish to annex into Lime Kiln RID, which was a condition of approval for the Black Eagle Subdivision. According to state law, in order to annex property into a current RID, a petition must be presented to the Commission and hold a public hearing. The Lime Kiln RID is unique in that it is in both Jefferson County and the Lewis and Clark County RID. Due to scheduling conflicts with both Commissions, each staff has determined to hold separate hearings. The Jefferson County Commission hearing on this issue is May 8, 2002.

The Lime Kiln Subdivision RID has approximately 15 members with an annual assessment of \$350 per lot. If the Utterbacks were granted approval into the RID, the increased revenue to the RID would be \$350 per lot. The Board has received a letter Mike McMahon, President of the Lime Kiln Road Improvement District. He is also president of the Lime Kiln Homeowners' Association (HOA). The HOA has requested the Commission to consider an impact or one-time fee to reach parity with the other RID members.

Assess upon the Utterbacks a one-time fee to help pay for the improvements that the homeowners have been paying into for the past seven years. Currently, there is no provision under state law that provides for this type of impact fee. Staff recommended the annexation of the Utterbacks into the RID.

Commissioner Varone stated she had a conversation with Mike McMahon this morning. He could not be present today and requested that the Commissioners delay a decision until he has an opportunity to speak. The HOA Bylaws indicate that no one can be included in it and must have a full vote of the HOA before anything can be annexed.

Sharon Haugen stated that the RID is a separate entity than the HOA. The HOA is governed by their bylaws. The RID is a funding mechanism set up by the BoCC that only the BoCC has the authority to determine who can go in and who go out. The

BoCC could annex could annex the Utterbacks into the RID and the HOA could choose to leave him out of the HOA. Mr. Utterback would still have to pay the \$350 per lot, but would not be a member of the HOA.

Andy Adamek, 139 N. Last Chance, representing the Utterbacks. The conditions of approval were unanimously approved by the BoCC. Condition 6 required Mr. Utterback to file this petition and he is moving forward with compliance of those conditions of approval and to annex the property into the RID. This is one of the items that remains to be addressed. The Jefferson County Commissioners have scheduled a public hearing for May 8 at 1:30. The applicant requested a joint hearing, but due to scheduling conflicts, that was unable to happen. Condition 6 requires Mr. Utterback to petition into the RID. Condition 4 required Mr. Utterback to extend the chipsealed surface of South Hills Drive from its current terminus on South Hills Drive to the eastern edge of the proposal. This extension is 3/10ths of a mile. The property to be improved is adjacent to the two parcels within the subdivision. If annexation is granted, that would increase the revenue of \$700 to the RID to provide for the maintenance of the extension and the overall maintenance of the existing RID. In addition to annexation, signs and address plaques are several other benefits the applicants are providing to the general public as well to the members of the current RID. There does not appear to be statutory authority for the Commission to assess a one-time fee for entry into an existing RID. It will cost Mr. Utterback between \$15,000 and \$20,000 to extend this road in addition to the \$350 per lot, per year to become a member of the RID. The only party that can object to inclusion into the RID is an owner of the property that is seeking to be annexed. In this case, the owner is the applicant.

Commissioner Varone. Mr. McMahon's letter states he is president of the Lime RID and the members of the Lime RID have not received any information. The members have requested discussion to determine if the Black Eagle Minor Subdivision should be assessed a one-time fee. Is there a Lime RID membership?

Sharon Haugen stated RIDs do not have boards. Mr. McMahon is president of the Lime Kiln Road HOA. The HOA works with the county in the management of the Lime Kiln RID but the RID and the HOA are not one in the same.

Mr. Adamek stated there are statutory provisions that allow for the creation of a board of trustees for an RID and that has not occurred here, which is why I was confused in the representation in the letter. There is no provision in statute and there are specific provisions governing extension and assessing fees for an RID. There is no provision providing authority for this county to do what Mr. McMahon is asking regardless of whether he is president of the RID or a HOA. There are provisions that allow the county to formulate methods for taxation once the property is annexed and those methods are uniform to all RID members and apparently that uniform method will result in a taxation of \$350 per lot, but what has been asked I do not think is authorize under law and even if it were, again I think we have the stronger equity argument regarding that additional cost. Mr. Adamek asked that the BoCC approve the petition on behalf of the applicant.

Kathy Harris, 2205 Lime Kiln Road. Ms. Harris stated this information came very recently with very limited amounts of information and asked what will the impact be to the existing RID and the people who support it? As a homeowner, as a taxpayer, and as one of the 15 people that support the most expensive road improvement district, she asked for additional time to allow the minor subdivision to present this information to people in the RID.

Dr. James E. Nickel, Lime Kiln Road. Dr. Nickel received this information Saturday and would like to continue this hearing until HOA has time to review this proposal.

Hearing no other comments, this closes the public hearing portion.

Andy Adamek stated the applicant has provided sufficient notice and wishes no further delay.

Jerry Grebenc reported that condition 6 states, "applicant shall petition the BoCC to annex the proposal into the existing RID." The policy has been if the applicant pursues the annexation but is either denied or for some other reason that the RID fails, the applicant has satisfied that condition of approval. The applicant may final plat this without being a part of the RID.

Commissioner Loendorf stated she would like to table this to make sure the people have a chance to voice their concerns.

Commissioner Varone recommended keeping the public record open to allow homeowners and Mr. McMahan an opportunity to speak.

Commissioner Loendorf moved to table the public hearing to May 7 and keep the public record open. Commissioner Varone seconded the motion and it carried 2-0.

Requests for Modification of Conditions of Approval for the Lowe Tracts, Lot 3 Major Subdivision. The applicant proposes to change the language of the covenants pertaining to the remainder parcel of Tract 3-B1-2 to allow the keeping of livestock. The proposal is located in the N½ of Section 13, T10N, R3W. The applicant Ann Pierce and her representative Bill Ries were present. Michael McHugh presented the staff report. The applicant is requesting that Tract 3-B1-2 be exempt from a covenant that prohibits keeping of livestock or any large animals. The surrounding area is being developed very rapidly with small lots. The soils in this area have poor filtering capacities and there are numerous health concerns with the keeping of livestock, such as manure and dust. At the time of the original hearing, the applicant did not have any comments concerning this condition.

Ann Pierce, 3235 Howard. Ms. Pierce stated without lifting this covenant, it will devalue her property if she cannot keep horses.

Hearing no other comments, Commissioner Varone closed this portion of the hearing. Commissioner Loendorf moved to render a decision Thursday, April 25. Commissioner Varone seconded the motion and it carried 2-0.

Request for a Modification of Conditions of Approval for the Foxview Estates Major Subdivision. The applicants propose to delete the requirement for construction of a fence along the length of the Helena Valley Irrigation District Canal. This proposal is located in the E½ of Section 31, T11N, R2W. One of the applicants, David Brown, was present and indicated his willingness to proceed. Michael McHugh reported that condition #9 states that the applicant fence the irrigation canal to prevent small children from entering the area. The applicant has requested the comm. to grant a variance from the requirement of condition 9.

David Brown, 4510 Harmony Road. Mr. Brown stated he also represents the partners of Foxview Estates. The applicants feel the fence will not effectively restrict small children from the canal hazard, but will effectively restrict wildlife. They developed the covenants to allow for the free movement of wildlife through the property. Mr. Brown requested that the Commission eliminate fencing condition 9.

Hearing no other comments, Commissioner Varone closed this portion of the hearing. Commissioner Loendorf moved to render a decision Thursday, April 25. Commissioner Varone seconded the motion and it carried 2-0.

Proposed Minor Subdivision, Summary Review, Rose Ann Minor. The applicant proposes to create one lot, for a single-family dwelling and a remainder greater than 160 acres. The proposal is generally located 2¼ miles north of Canyon Ferry Road, west of and adjacent to Hart Lane. The applicant Connie Johnson was present and indicated her willingness to proceed. Michael McHugh presented the staff report. The area is predominately agricultural in nature with scattered residential development. There are no covenants and the property is not located within a special zoning district. No public comment has been received by the planning department. A segment of a Helena Valley Irrigation District canal is located along the eastern portion of the property. Access is off Hart Lane which is a road maintained by the county, and the applicant would be required to obtain an approach permit for the proposed driveway. The Lakeside Volunteer Fire Service Area has recommended the applicant/developer pay a water development fee of \$200 per new lot for adequate fire protection. A five-year weed management plan should be submitted to the Weed District. No major issues have been identified. There are three fault lines associated with this property. There are no parkland requirements. This proposal complies with the design requirements of the county subdivision regulations. Staff recommended approval subject to 11 conditions as outlined in the staff report.

Robert Drake, 2940 Spokane Creek Road. Mr. Drake expressed his support of this proposal. The applicant's intent is to move the ranch hand closer to the work. This property is a third generation family farm and the applicant would like to keep the family farm in the family and in operation.

Connie Johnson. Ms. Johnson stated she understands the conditions of approval.

Hearing no other comments, Commissioner Varone closed this portion of the hearing. Commissioner Loendorf moved to render a decision Thursday, April 25. Commissioner Varone seconded the motion and it carried 2-0.

CTEP Hearing Nominations. Kathy Harris reported that the Commission will receive nominations for projects for 2003 funding. The county will have \$158,000 available for CTEP funds.

Project: Repair and Restoration of State Capitol Front Steps. Ron Cullen, Historic Preservation Commission Chairman. Mr. Cullen asked for the Commission's support for the repair and restoration of the capitol building steps. The HPC is requesting for the Commission's participation to help sponsor this project.

Chris Imhoff, 22 S. Montana Avenue. Ms. Imhoff requested that the city and the county each contribute \$10,000. This project is an economic stimulus for this area.

Tom O'Connell, 628 Hayes. Mr. O'Connell, the State Architect, stated the front steps of the capitol are in poor condition because the supporting structure is deteriorating. Additional funding will be requested at the next legislature.

Marvin Eikles, 1500 Flowerree. Mr. Eikles, Administrator of General Services stated the steps have been cornered off and cannot be used by the public.

Project: Continuation of Bike/Ped Path-Rossiter School Area. Dave Lewis offered support for this project to continue the expansion of the bike path network in the Rossiter School north to Montana Avenue to access three heavily populated subdivisions in this area. Construction will begin this summer.

Project: Non-motorized trail connection between Mt. Helena City Park/LeGrand Cannon Boulevard and Spring Meadow Lake State Park. Andy Bauer was present on behalf of the Prickly Pear Land Trust to offer support to create a non-motorized trail between LeGrand Cannon Boulevard and Spring Meadow Lake State Park. The trail is approximately $\frac{3}{4}$ mile for the connection.

Project: East-west bike path generally connecting the East Helena area to Spring Meadow Lake. Kathy Harris reported that Julie Burk submitted an application proposing this project. The benefits are an alternative mode of transportation for residents of all ages, and developing an urban trail system is a quality of life amenity. Ms. Burk identifies potential fund raising efforts as the source of local match.

Project: Bike/Ped path from East Helena to Spring Meadow Lake Park. Kathy Harris reported that Laura Vachowski submitted an application for this project. Ms. Vachowski has identified developing fund raising opportunities to provide the local match.

Project: Restoration of Windows at County Courthouse to Maintain its Historical Structure. Kathy Harris reported that the Public Works Director has submitted an application for this project. The windows have been retrofitted once in the past, however, they are 100 years old and have outlived their useful life. The benefit would be taxpayer money savings, energies, and safety windows provided on the third floor. The proposed source of match would be the local building rents and building fund.

At last night's City Commission meeting, the city reviewed the nominations and recommended supporting a \$10,000 contribution toward the capitol steps project. A second project they recommended supporting one-half (\$50,000) of the costs of constructing sidewalks costs within the city along Knight Street (east of CR Anderson School to Benton Avenue). The city's third project will be to continue building sidewalks on city parks properties. The city's fourth project will be to continue building sidewalks on city-owned properties that currently do not have them.

Joint Venture Agreement. (cont. from 4/16/02). Ron Alles requested that the agreement between Lincoln Solid Waste Management and Wilson Property Management, Inc. be tabled as it has not yet be reviewed by the county attorney. By consensus, the Commission tabled this agreement until the county attorney has reviewed it.

Headwaters Cooperative Recycling Project Agreement. (cont. from 4/16/02). Ron Alles requested that the agreement to provide organization for the pickup, consolidation, and sale of certain types of recyclable materials be tabled until the county attorney has reviewed it.

There was no other business and the meeting adjourned at 10:50 a.m.