

PUBLIC MEETING - Minutes

August 19, 2003

9:00 a.m., Room 330

Chair Varone called the meeting to order at 9:00 a.m. Commissioners Murray and Tinsley were in attendance. Others attending all or a portion of the meeting were Carole Byrnes, Ron Alles, Marni Bentley, Lloyd Teigen, Connie Teigen, Walt Berry Greg Duncan, Dean Smith, Paul Eardley, Noela Taylor, Carl Linn, William H. Stevens, Thomas E. Grant, Steve Skinner, Andy Skinner, Jason Mohr, Craig W. Trapp and Tom Caston.

Pledge of Allegiance. Everyone recited the pledge.

VERBATIM

Green Acres Major Subdivision RID Rate Hearing. (Marni Bentley)

The Commissioners will consider a resolution levying and assessing a tax upon all benefited property within RID No. 2001-8, Green Acres Major Subdivision.

Chair Varone: Marni

Marni Bentley: Madam Chair, Commissioners, the Green Acres RID was created in 2001 for the purpose of maintaining the roads in the Green Acres Major Subdivision. The proposed rate at that time was \$262 per lot per year. A rate hearing was not held at that time, so the money was not accrued for maintenance. Subsequently the developer did make some improvements to the roads and those costs were taken out of the original estimates. The new cost estimates provided by Public Works would put the rate at \$140 per year per lot. I have scheduled a rate hearing for today and have put the proper legal notices in the paper and have notified the owner of all the lots. I didn't receive any protests or comments on this proposal. So staff recommends approval of the resolution levying and assessing the tax upon all benefited property within the Green Acres RID. Staff can answer any questions.

Chair Varone: Any questions of Marni? Marni, we hold a public hearing now, don't we?

Marni: Yes.

Chair Varone: Thank you. This is a public hearing. Anyone wishing to speak in support of, in opposition to or in general, please come forward and for the record state your name and address.

Andy Skinner: Madam Chairman, Members of the Commission. For the record my name is Andy Skinner, Box 5447, Helena. I wish to thank the Commission for the cooperation they've shown in working with us and getting the maintenance agreement worked out and putting it off so that we could get it to where we could get the lots sold. I am in agreement with maintenance districts. I think it's a good idea that we maintain the subdivisions that we install and I thank you for your help. One thing I would like to bring up while I'm here - in this subdivision there was some wording that prohibited below ground living spaces. We'd like to get this wording changed. I've got a copy of how ours is. We'd like it brought inline with the rest of the subdivisions in the area that have been approved, if we could so that it would allow four foot living spaces. I brought records on the groundwater for you and the original approval so you can see. Maybe you could see if we could get it worked out to amend this wording in another meeting.

Chair Varone: Mr. Skinner, if I could ask you, are those copies that we could have?

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Mr. Skinner: Yes.

Chair Varone: If you would give those to Carole, we can assure that Carole gives them to Sharon and staff and then they'll call you and see what they can work out for another meeting.

Mr. Skinner: Ok, Thank you very much.

Chair Varone: Anyone else wishing to speak in support of, in opposition to or in general today on this resolution, please come forward now. For the second time. The third time. This closes the public hearing.

Commissioner Murray: Madam Chair, I move approval of the resolution levying and assessing a tax upon all benefiting property within the Rural Improvement District Number 2001-8, Green Acres Major Subdivision and authorize the Chair to sign.

Commissioner Tinsley: Second.

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

All: I

Chair Varone: Motion carries.

Resolution Calling for the Election of the Sewell Community Water and Sewer District.

Jerry Grebenc reported this is part of an ongoing process of the Sewell Infrastructure Study that the County has been undertaking along with our consultant, Entranco. A copy of a petition for a formation of a Community Water and Sewer District for the Sewell Subdivision and some adjacent properties was submitted to the County. The Elections Office has verified the signatures on the petition. The petition is valid. Also attached was a draft resolution of intent to hold an election to form the district and to elect a board of directors. Under State Statute, a petition of this nature does require at least 10% of the registered voters residing within the proposed district to sign the petition. That step has been completed. Upon certification and acceptance of the petition, a public hearing, this hearing, is required before the Board of County Commissioners to provide for public comment. If the Board of County Commissioners do chose to proceed with the process to form the district and elect a board of directors, the Board must set a date for an election. According to the County's Elections Office, timing would require a mail in ballot rather than your normal voting procedure at a precinct. If the district board election is to be held simultaneously the nomination of persons running for that board must open 135 days prior to the election and nominations must close 75 days prior to the election. According to the Elections Office, the earliest date the election could be held was January 2, 2004 and the Elections Office did indicate their preference was January 6, 2004. For any election to be valid, it would require at least 40% of all registered voters in the proposed district to participate in the election. If 40% of the voters do participate, a simple majority would determine the outcome of the election. This would simply be the election to create the district and to elect a board of directors. This would not be a debt election. That would be a separate election. This would be a two-part process. This hearing was noticed in two consecutive Sundays in the Independent Record. Dave Ahny from Entranco and Laura Mullen from the Environmental Health Department are here to answer any questions.

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Jerry Grebenc reported that if 40% of the registered voters do not participate, then the election won't be valid.

Chair Varone opened the public hearing.

Chair Varone closed the public hearing.

Commissioner Tinsley moved to approve the resolution calling for the election of the Sewell Community Water and Sewer District setting the election day on January 6, 2004 and authorized the Chair to sign. Commissioner Murray seconded the motion and it carried 3 - 0.

Proposed Subdivision, Summary Review to be known as Superior Propane Helena Terminal Minor.

The Commissioners will consider creating a space for lease on Montana Rail Link property for a propane gas receiving and distribution terminal. The proposed subdivision is located in the NW1/4 of Section 28, T10N, R3W; generally located west of and adjacent to 18th Street and south of and adjacent to the railroad tracts.

VERBATIM

Chair Varone stated the applicant is Dean South of Superior Propane and Montana Rail Link. Is Mr. South or a representative from Superior Propane or Montana Rail Link in the audience? Would one of you please come forward? Are you Mr. South?

Mr. South: yes.

Chair Varone: Mr. South have you had an opportunity to read all the information that the planners have provided to us?

Mr. South: Yes, I have.

Chair Varone: And before we begin the presentation, do you have any comments? For the record, I don't know if you know the process or not, but you'll have an opportunity to speak now before the public hearing and after the public hearing, but before we begin the process, do you have any comment at all?

Mr. South: No, I don't. We have brought in an expert in the field of safety and fire prevention which we would like to speak on this subject with the Commission.

Chair Varone: Thank you. When the public hearing begins he'll have an opportunity to come forward. We appreciate that. Thank you. Frank,

Frank Rives: This first slide is a vicinity map which shows the proposed subdivision. This is 18th Street. It is paved all the way to the corner of the property. Just for notification, there is a fire hydrant that is located there and I have a slide showing it, but will continue. Also for purposes of elimination, I've included a slide that shows the city of Helena boundary. As you can see, the city of Helena is located there and is identified by the light blue and as you can see the subject property is wholly surrounded by property that has been annexed by the city as well as several of the adjacent properties. This is a vicinity map which was provided by the applicant which is the proposed site. This is the Union Town (?) site, which is also on this railroad property and this is the proposed location of the propane receiving and distribution facility. It's a site plan which shows what the terminal will look like. At this time there is no plans for onsite wastewater treatment or domestic

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water facilities. This just indicates that the subject property, which is outlined in yellow is in the County's Urban Area. The applicant proposes to create a space for lease on Montana Rail Link property for propane receiving and distribution terminal. The existing 12-acre parcel is presently developed with the Montana Tunnels ore loading facility. The proposed propane gas terminal would include five 30,000 gallon storage tanks which would have truck access for local distribution and the site for the propane terminal would be approximately two acres and would be enclosed by a chain link security fence. The site would require some filling and grading prior to development. As I mentioned before there are no plans at this time for water or wastewater facilities. The property would be accessed from 18th Street and Billings Avenue. This is a photograph showing approximate location of the proposed propane facility. Directly to the south of the propane facility is Eastside Plaza. That is the fire hydrant that I was mentioning and it is approximately 500 feet from fire hydrant to the corner of the property. Of course that is on City property. That is on County property and one hydrant is probably not adequate for a major accident or emergency. This is a picture of the site looking to the south you can see the building behind and that is the Eastside Plaza. That is 18th street. This is looking north showing the railroad property. This is looking west. You can see the property is pretty flat and this time of year it is pretty dry. This is looking west towards Carter Drive. Carter Drive is right there. This would be the east corner of the proposed facility with the Dusenberry Company. This would be the east corner of the proposed facility with Montana Tunnels site located adjacent. The subject property is surrounded by developed and undeveloped commercial lots and there are no agricultural uses located on the subject property. The soil mapping unit identified is Musselshell-Crago Complex which has severe limitations for agricultural uses. The main limitation is the risk of erosion unless close-growing plant cover is maintained. There are no water rights, irrigation facilities, agricultural easements or agricultural water users identified on the subject property. The applicant has no intentions at this time putting in a wastewater treatment system, however, I would note that the soil-mapping unit identified has moderate limitations for the placement of onsite wastewater treatment systems due to slow percolation rates. There are no onsite wells on the property nor are any planned at this time. Water in the area comes from wells that are 20 to 355 feet in depth with an average depth of 78 feet. They have an average yield of 25 gallons per minute. This is an industrial subdivision so it would have no impact on local schools as far as generating students. Of course it would have impact on local schools in the area of tax base.

The proposed subdivision does provide legal and physical access and local emergency services are available and response times are good. Probably the major issue for this subdivision would be fire protection. Fire or explosion are possible catastrophic events which could be associated with this facility. There is a possibility of derailment, grassfires or accidents, which occur during the receiving, and distribution of propane. During review of the subdivision, staff weighed two alternatives; that is, should the facility be located in a less populated rural area. The downside to this would be that such a rural area would not have the emergency services located near by that might be necessary in the event of an accident nor would the rural facilities be adequate to deal with a major accident. The other alternative would be should that facility as it's being proposed be located in a more populated area, but where emergency facilities are located close by and are better able to deal with major accidents. The property is wholly surrounded by the City of Helena and is in the jurisdiction of the City of Helena's Fire Department. However, the property is in the East Valley Fire District. There is an existing water main along Carter Drive and a fire hydrant which is located at the intersection of Billings Avenue and 18th Street. These could provide fire-fighting water supplies for fighting fires and cooling propane tanks. However, a single hydrant located more than 500 feet away would not be sufficient to provide necessary water flows to deal with a major accident. During review I was contacted by the City Fire Marshall as well as the East Valley Fire Department. The City Fire Marshall, in conversations with staff, expressed concerns that the East Valley Fire Department might not be able to provide the quantity of water which is necessary to cool the propane tanks in the event of a fire. The City of Helena Fire Department and East Valley Fire Department did meet last week to discuss the propane facility and they

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provided staff with a copy of their recommendations that a fire safety analysis be done for the property and staff has prepared a memo which you should have which contains the recommended language for condition number one that is a fire protection condition. That was submitted to the Commission as well as to the applicant. This is just another photograph of the hydrant.

Propane kept in a gaseous state at normal atmospheric pressures would not affect groundwater quality of quantity. The property is located in the Lewis and Clark Air Quality Protection District. Some cumulative impacts on air quality could be expected due to increased vehicular emissions due to the traffic of trucks coming and going. The Conservation District is not requiring an erosion control plan. Some spotted knapweed was identified on the property and as is required in all subdivisions implementation of a five year weed management plan would be required. There are no surface waters identified on or adjacent to the subject property. There is minimal wildlife habitat located in this industrial and commercial area, however during the site visit I did see a bunch of gofer holes and ground squirrel burrows and whatnot. A facility which receives petroleum gas by railcar stores large volumes of propane onsite and dispenses the propane to delivery truck does have a potential for a high hazard possibilities. A fire or explosion on the site with five 30,000 gallon propane tanks would be a catastrophic accident which could result in enormous property damage and possibly loss of life. Modern safety technology in the petroleum gas industry can greatly minimize such possibilities for serious accidents, however the risk cannot be totally eliminated. There are the usual risks for radon exposure, however they would be extremely low in this case because there are no buildings proposed on the property. There would be no build up of radon gas. The Bald Butte Fault is located approximately one-half mile southwest of the property and approximately two miles southwest of the Prickly Pear Fault.

Staff is recommending approval of the proposed preliminary plat for the Superior Propane Helena Terminal Minor Subdivision. The preliminary approval would be for space for least located in the northwest corner of Section 28, T10N, R3W. Staff recommends this approval of the be subject to the findings and nine conditions which are completed in the staff report and staff is recommending approval of this location because staff believes that it's a better location than say putting it out in a rural area where the emergency response facilities would not perhaps be adequate to deal with a major accident. In conversations with the City they said that they encouraged this kind of commercial/industrial use of the property. It's not necessarily propane that I am saying but they encourage commercial/industrial development in this area. So that concludes my remarks at this time and I'm available for any questions.

Chair Varone: Thank you, Frank. Commissioner Murray

Commissioner Murray: Madam Chair, Commissioner Tinsley. Frank, the tanks are proposed to be permanent, is that correct?

Frank Rives: Yes sir.

Commissioner Murray: So a railcar will bring them in and they'll fill the tanks form a railcar?

Frank Rives: That is my understanding, yes.

Commissioner Murray: To put this in prospective for us, how big are the two other propane sites in Helena? There is one by Associated Foods and one by Dick Anderson Construction. They have what look like big tanks, but I have no idea how big their tanks are.

Frank Rives: Madam Chair, Commissioner Murray, Commissioner Tinsley. I am not aware of the size of those

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two tanks, so I'm sorry I can't address that question. These are big tanks.

Commissioner Murray: 30,000 gallon. Madam Chair, Commissioner Tinsley, a propane fire and probably Greg would be the one to answer this, you fight that with foam similar to a gasoline fire, is that the preferred method for putting the fire out if one starts.

Frank Rives: Madam Chair, Commissioner Murray, Commissioner Tinsley. I'm not sure about the use of foam, however in my conversations with the City Fire Marshall he did say that in the event of a fire that one of the things that is necessary is for the tanks to be cooled with water. He said copious amounts of water are needed to cool the tanks to prevent explosion, so I think the applicants fire safety expert can probably better address those questions, but I do know that the City Fire Marshall and in my discussion with the acting State Fire Marshall identified that they believe copious amounts of water would be needed in the event of a major fire to cool the tanks.

Commissioner Murray: Madam Chair, Commissioner Tinsley. The reason for my question is the East Valley Fire Department now has a mutual agreement with the airport to use their foam trucks designed for airport disasters for the tank farm for Conoco and that is why I was curious if foam is the preferred method for extinguishing a fire and I see our Fire Marshall shaking his head, so we'll get there in your testimony. Thank you Madam Chair, Frank.

Chair Varone: Thank you, Commissioner. Frank, I do have a couple questions. You modified the condition of approval one as agreed upon by the East Valley Fire Department and the City of Helena Fire Department. It says that the applicant will provide to both a list of qualified consultants with the technical knowledge to prepare the fire safety analysis. What is doesn't do is go on to say this, who picks the consultant and what is the reason providing that information to the fire department? It's not that I disagree I just need further explanation.

Frank Rives: Madam Chair, Commissioner Murray, Commissioner Tinsley. I left that a little open prior to the meeting because I thought during the meeting there would be a little give and take and eventually would come up with amending a condition to something that is mutually agreeable. I do not believe that the applicant, the East Valley Fire Department and the City of Helena have met jointly. I believe the two fire departments have met, but I think that before we can iron out the agreement, we have to get the three of them together to meet and agree on something.

Chair Varone: Understood, thank you. For the record, quite some time ago, the state Fire Marshall, Terry Phillips, who is no longer there called me about this application. First of all, I couldn't respond to him because I didn't know anything about it. I didn't even know the application was in. Secondly I couldn't have because that would have been ex parte communication, so what I did is that I referred him to Ron and Ron I know you had conversations with the state Fire Marshall. I don't see any of that information in here, so would you share with the other two Commissioners and me what those conversations were.

Ron Alles: Madam Chair, Commissioners, yes, Terry Phillips, the past state Fire Marshall did call me and I believe Frank eluded to the point that he has spoke with the acting fire marshal, so Mr. Phillips was gone. I don't know what Frank's conversation ended up being with the acting fire marshal, but he did refer specifically to what he required. I don't know that his comments necessarily have to be in this. I know he's probably met with the City Fire Marshal and East Valley, so I'm sure indirectly his comments are a part of this proposal.

Chair Varone: Frank, before I ask what conversations you had with the acting, I would like to know who they

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appointed. Since I was with that office for such a long time, I do know that statutorily the state fire marshal is responsible for approval of all activity like this outside of an incorporated city and to not see any comment here at all I think could put us in trouble. I understand the state fire marshal is gone and may have acting they have almost no people. But even if we could get just a short letter from them saying that we agree with what the city and local fire department have agreed to. I would have a comfort level with that. What was your conversation with who was it Frank?

Frank Rives: I can't recall the man's name right off the top of my head. I'm sorry. I did have a conversation with him on Friday. I outlined what the conversations that I have had with the City of Helena's Fire Department and the East Valley Fire Department. I told him about that they had met and agreed upon a fire analysis. The acting fire marshal said since the city and the city fire marshal were involved as well as East Valley that he had no official comments to make. The only thing else he said was that personally he would prefer that the facility be located farther out of town. He was not responding in an official capacity. He was expressing his professional opinion as a fireman, not as the fire marshal. Though the jest of this conversation was that since the city and East Valley had met and were in agreement, that his office wasn't going to get involved. That he felt that the City Fire Marshal knew his business.

Chair Varone: Thank you very much, Frank. Commissioners if you are agreeable I will rescind my request to have anything from the State Fire Marshal. I think what Frank has narrated as the conversation would work because it is on the record.

Commissioner Tinsley: Madam Chair, given the fact that the legislature has decimated that office, I don't see how on earth it could ever do such a thing with us and be expected to perform a more statewide responsibilities adequately. I mean, I know they're located here in Helena, but there is absolutely no way that they can... I am fully comfortable with the competence and capabilities of our city fire marshal and our rural fire folks and I just don't see this office will probably be gone in the next two years because the legislature appears to be the way they are going.

Commissioner Murray: Madam Chair, I'm coming at it from a little different point of view I guess, but I am totally confident if the City Fire Marshal is prepared to make a recommendation and to comment on this this morning. I am willing to accept their competence over in lieu of the state commenting on this.

Chair Varone: As am I and just to let everyone in the audience know some of that office was axed before the legislature got into town at the request of the division administrator and yes the legislature did decimate that office, but then the volunteer fire departments got together and along with other fire officials and reinstated that office including the staff after the legislature went home. The division administrator was the one that woofed the rest of the staff and then told the state fire marshal what he had done. So, the blame here is probably not the legislature at this point. I just wanted that clarified for the record. We have a legislature that probably does a lot of things that we disagree with, but at this point that wasn't them.

Commissioner Tinsley: Madam Chair, for the record the division administrator makes cuts based on the level of funding they receive and the support they receive from the legislature. It all falls back on the legislature, everything that occurs in state government or the executive branch.

Chair Varone: I am not going to debate the issue with you. I just know the facts. I really am disappointed that you said that I'll lose. Like I said this is not a debate, I know the facts. And I'm not going to debate it with you. Are there any other questions before we begin the public hearing? Mr. South, before we begin the public hearing do you have anything to say before we begin? It looks like everyone in the audience is going to

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be speaking to this issue.

Mr. South: Madam Chair, Commissioners, this proposal, of course I have had meetings with Chief Wagner of the East Valley Fire Department. I think the question is the safety aspect of the facility and this is why we have water and an expert that has done terminals from Alaska to Florida. Mr. Murray had asked about the storages on Airport Avenue. That is capacity of 72,000 gallons. You mentioned one other location they're 60,000 gallons on Canyon Ferry Road.

Commissioner Murray: The facility I mentioned I believe is called Montana Propane, across from Grimes Motors.

Mr. South: Yes, that is only a 4,000 gallon tank there. The largest facility within the city is the one on Airport Road. What I would like to do is have Mr. Eardley maybe go through the new modern technology and the storages, the safety, the value. I think that is a thing that has to be solved. So at this time I would like to yield it to him.

(tape ends)

Paul Eardley: My address is 3768 South 300 West, Salt Lake City Utah. My company's name is Propane Equipment and Supply. We're an equipment manufacturer. We're an installer, a contractor, a designer of LP Gas Systems. We've installed and designed systems as Mr. South stated from Alaska to Florida. We've installed many rail facilities, rail terminals. And have acted in the capacity of expert witness in previous cases. I would like to say one thing about his case if I may. Mr. South contacted me and asked me to appear on his behalf. I have no contract. No financial association with Mr. South. I am not supplying any parts or any other service other than to appear here before you today. So, having said that, the primary goal with any propane system, be it a large or a small system, is the containment of the propane within the tanks, to control the propane, be it either in liquid or vapor form and we now have codes in place that are recognized by the international currency and (?) codes and as the definitive expert, the definitive code to use, that being the international fire protection association NFPA number 58. The codes, the international codes, the new codes all refer to NFPA 58 directly and quote chapter and verse from NFPA 58 when situations arrive such as this. I brought along some photographs of typical propane facilities, rail facilities and some of the equipment that you would see in these facilities that may help educate you as to what you would see out there if I may share those with you. They're in no particular order, but it is for you to get a taste of what we're really looking at. The total product control, as I said is really the heart of the matter. When you have total product control by internally operated valves within the tanks, then the need for fire suppression or fire fighting is reduced significantly. In fact NFPA 58 recognized that as part of the criteria for your fire safety analysis is product control. If you can achieve product control, the limitations or the design requirements for propane are substantially reduced. We achieve the product control by the use of pneumatically operated internal valves that are only open when a transfer of products is taking place. There are also, we utilize fuse links with this controls that should there be a fire that they'll shut themselves down immediately closing off the product and containing that within the tank. We utilize emergency shutoff valves within the system at the rail facility and also at the current facility. We also pneumatically control also fuse linked. We're also connected to a central emergency shutdown point. One at each rail tie and one at each truck unloading station and there's other remote locations around the facility that can completely shut the facility down and close all of the valves, shut all of the electricity off and basically isolate the incident. There is the use of what we call safe hoses or smart hoses now. These smart hoses have check valves built into them, so that if the other hose ruptures they will shut themselves off, only losing the product within the coupling or the short length of hose. So there are many of those redundant safety features that are being offered for this system. When and if or you have

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a fire with a propane facility, the very last thing you want to do is put the fire out. Reason being is that you have propane vapor escaping if you do put the fire out and heaven knows where than propane vapor is going to go to. It could end up in a fire truck, it could end up on the railroad, it could end up anywhere and then have a flash, another fire just because you put the previous fire out. Cooling of the tanks is recognized by NFPA 58 now as the last resort if you can't meet the total product control or if there are ever extenuating circumstances that are brought about by your fire safety analysis. It is also being restricted back that you don't cool the entire tank. The only thing that you need to cool anymore is the points of what they call potential exposure. That being the relief valve area, the valves under the tank, those types of areas. It is not necessary as the fire protection to cool the entire tank. There's been a lot of emphasis being given to water and the fire hydrant. I think that thought, that emphasis, is well placed, but we need to talk about, we need to consider what's really being offered here and is it really necessary. The water definitely is an option, but in my mind the best option is what I speak of as far as total control of the product. I brought another submittal for you that demonstrates and shows the safety equipment that would be used in this facility, such as the hoses, the internal valves and the safety devices that would be employed. I don't know if you have any further questions, Madam Chairman?

Chair Varone: Are there any questions of Mr. Eardley before we go on? Thank you sir.

Mr. Eardley: Thank you.

Chair Varone: Mr. South, you will have an opportunity to close. This is a public hearing. Anyone wishing to speak in support of, in opposition to or in general please come forward now. For the record, state your name and address.

Tom Coston: Madam Chair, Commissioners, my name is Tom Coston. I'm with Montana Rail Link out of Missoula, Montana. The only thing I have to offer this morning is our interest in developing this opportunity on our property as shown on the map and would also add that any of our activity in handling the tank cars and switching the facility would certainly follow within all the safety requirements that we're required to live by. Those are my only comments this morning. Thank you.

Chair Varone: Thank you sir.

Commissioner Murray: Madam Chair, Commissioner Tinsley, you may want to, Tom, you may want to point out that your safety record in shipping fuel out of here to west, to Missoula and to points during the days gone by when you didn't have a facility in Missoula. I mean you have an impeccable safety record at Rail Link shipping jet fuels as well as other fuels by rail coming into the transfer facility here and then loading tank cars and shipping out. So on the record, you may want to get your safety record there as far as Rail Link

Tom Coston: Yes, we have the in recent years, I'm trying to come up with some dates, but in the past half a dozen years we've been handling very large volumes of diesel fuel and gasoline for Conoco, Phillips and Exxon Mobile from Missoula to Thompson Falls. In addition to that, daily we handle these types of products across the length of our railroad. With that growth in our business, we have double our efforts and in some cases tripled our efforts in monitoring track conditions ahead of this business. Thank you, Commissioner Murray for pointing out that we have had very successful results from doing that.

Chair Varone: Thank you, sir. Anyone else wishing to speak in support of, in opposition to, or in general?

Craig (?): This propane facility we have requested an in depth fire analysis be conducted by qualified

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individuals to give us a basis upon which to work from and to note what requirements need to be fulfilled to have this a safe place within this populated area. This area is becoming more and more populated, probably as we speak. For instance, the emergency response guide asked for evacuations if something were to happen at this facility - a mile in all directions. A mile in all directions would be the evacuation of 3,293 people according to data supplied by the City Planning Staff. I think that the time involved here, we couldn't get people out in time in order to avert a catastrophe if one were to happen. As far as the water, if I may read from the Uniform Fire Code 97 Edition, Standard 82-1. It says, "Experience has indicated that whole stream application of water in adequate quantities as soon as possible after the initiation of flame contact is an effective way to prevent container failure from fire exposure. The majority of large containers exposed to sufficient fire to result in container failure have failed in from 10 - 30 minutes after the start of the fire when water was not applied. Water in the form of a spray can also be used to control any ignited gas leakage." What this means is you've got to get the wet stuff on as soon as possible upon any type of mechanical failure or potential container failure. Ten minutes is not a lot of time. I don't even know if we, as the Helena Fire Department, if we were the primary responders, could get out there and lay hose from that remote location and start cooling that container in time. So, you're talking about how do we try to evacuate the area or how does East Valley attempt to evacuate the area? I can't answer that. We don't have the capabilities. We know of other incidents that happened within our community, one being the Conoco bulk plant where safety provisions, mechanical devices, are in place to stop what they say could have been stopped and yet we have leakage over the containers. We had a propane incident down on malfunction, if you guys recall about 16, 17 years ago. Reports have indicated that if we would have been 60 seconds later in getting cooling of the tank, water on the tank to cool it, we may have had a devastating effect to this community which I'm sure we would still be feeling the effects of. I'm open for any questions you guys might have. To be quite honest, I don't have the expert knowledge, the technical knowledge about all the different feasible links and all the shut offs involved. I do know what our current facilities have and how they've upgraded and what control measures we have in place there. The industry has made a few improvements from this addition of the code and the code has changed a little bit between the one he's citing, NFPA 58 pamphlet and what is in the Uniform Fire Code Standard, but I feel that this area really needs to be analyzed by a third party at the cost of the applicant and it needs to be analyzed by the people that have response and authority over that area. I would be more than willing to assist in that endeavor. As you know, this is right in the middle of an area that's surrounded by the city. I don't know if annexation is ever going to be the key in this area, but if it is, then safety measures will have to be met from my point of view even at that time, but it's best to do them up front. There are many other methods that are considered more safe. Perhaps a safety analysis will come back with a proposal that burying the tank might be more safe. That mounding the tank might be more safe. The tanks, that's plural. Or special systems might need to be involved, special fire protection systems. I have contacted experts in the field and from what I've gathered so far, if this is in a populated area, special provisions will need to be enforced and need to be there to protect the citizens from potential (?) and other hazards associated with this type of facility. If you have any questions, please feel free to ask me. I'll be available.

Chair Varone: Any questions of Craig?

Commissioner Tinsley: I have one. With regards to the proposed alternative condition of approval number one, somebody pointed out there is a statement that says the applicant will provide East Valley Fire Department/City of Helena Fire Department a list of qualified consultants with the technical knowledge to prepare the fire safety analysis. Do you folks want to chose or do you want to allow them to put it upon and let them chose as long as you have determined that they meet the criteria?

Craig: We would look over the people and their credentials. Who they work for, so on and so forth so we can get a fair and independent third party analysis done on this that really assess the risk and the requirement of

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a fire safety analysis as specified in NFPA pamphlet 58. If you wish to know those considerations, I'll be happy to share them with you.

Commissioner Tinsley: So you folks want to make the determination of who is going to make the analysis?

Craig: That I believe is the intent of Chief Wagner.

Commissioner Tinsley: OK.

Chair Varone: Craig, if I could just stop the proceedings right now. There are two Commissioners here that need a real short five minute break and then we'll resume in five minutes.

Chair Varone: Thank you for your patience on our short break. We will reconvene now. Commissioners, before we move forward, do you have any further questions of the City Fire Marshal? This is a public hearing. Anyone wishing to speak in support of, in opposition to, or in general please come forward now. Fore the record, state your name and address sir.

Greg Duncan: My name is Greg Duncan. I am at 1085 Helena Avenue. I am an attorney here in Helena. I represent Mr. South as well as know him on a personal level. I guess what I would like to simply say about Mr. South is that he is a good businessman. I've been associated with him and his family for a number of years and I know that anything Mr. South and his company is going to do out here will be the state of the art. He's taken the time to get Mr. Eardley to come up at his own expense from Salt Lake City to help educate you. I guess I want to come on board as being in favor of this facility because I do know Mr. South will do it and he'll do it right. He's not going to cut any corners. The other thing is this is a facility that will provide employment here in Helena. It will help add to the tax base, which we all know is a problem now. And I guess I am stating that I am in favor of it. As for the fire and safety measures, I believe Rail Link has been paying taxes on this property for years and that's one of the services that also comes with paying personal property tax and real property tax. I just want to go on record as being in favor of and supporting the approval of this plan.

Chair Varone: Thank you, sir. Anyone else wishing to speak? For the second, sir please.

Paul Eardley: Mine name is Paul Eardley again. I would like to comment about the fire chief's comment about responding to a propane tank that's in a fire or involved in a fire and product control. He made a comment that there was an incident 17 years ago that if they were 60 seconds later they may have been a catastrophe on the tank. The same issue and the thinking into the new codes applies to that reasoning of product control. Let's say there was an incident at this facility and a tank was involved in flame. How do we know when that tank is going to rupture? We don't. How do we know if it is even going to rupture? We don't. The ideal situation in a case like that if all of the safeties closed and the system burned all of the product out of the pipelines and the pumps, then the fire would go out, but lets say there was a kind of failure of the vessel. There was some other accident that precluded the propane from being shut off and the tank was indeed engulfed in a fire. At that point and time you have first responders responding to the fire. Do we know how long the fire has been burning? Do we know what intensity the fire has been burning? Do we know if there is all the water available that supposedly you would need? Do we know just what kind of time frame we have to fight that fire? No, we really don't. We have no idea what is going to happen. So, our suggestion in that is if you're in that type of a condition, let the tank burn out. The likelihood of the tank actually blowing up in a fire is very remote. It would just burn the product out. Exploding propane tanks, large propane tanks, small propane tanks are by definition or by practical experience, happens very seldom that a tank actually explodes. They may rip and dump the product, but very seldom do they really explode. That's why we have safety relief

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valves on top of the tanks. They're designed to handle the full capacity of the tank should it over heat, should it catch fire it will vent the propane out of the tank reducing the pressure, refrigerating the tank. That is another part of the safety features that are involved in this. I just want to make that comment about responding to a tank that is on fire.

Chair Varone: Thank you, sir. Anyone else wishing to speak? For the second, the third time. This closes the public hearing. Mr. South you do have an opportunity to close.

Mr. South: Madam Chair, Commissioners, our goal in proposing this terminal is to try to bring propane into this area at a more economic level for the consumer of Lewis and Clark and Gallatin and Silver Bow, Jefferson, Broadwater - all of these counties would benefit from the lower cost of propane. When we can ship by tank car versus transport it definitely brings the cost down. We at Superior Propane, we has several proposed terminals around the northwest. We were just approved in Louise, Washington - a small community of the outskirts of Yakima. The facility there is very similar. It's within 30 feet of a large floral warehouse. It's about two blocks from the City/County offices and it was approved quite easily. We presently pull gas out of a very large terminal in Tokyo, Washington. There's terminals in Missoula, Superior, Thompson Falls, Logan - all of these terminals absolutely have no water availability. They are just product containment today is the key. If the systems are installed properly with all the new safety features this has eliminated much of the worry of any kind of higher risk factor. We at Superior would appreciate your consideration and we will do our utmost to meet with the fire departments and try to get everybody at ease on this terminal.

Chair Varone: Thank you, Mr. South, I believe Commissioner Murray has a question.

Commissioner Murray: Madam Chair, Commissioner Tinsley, Mr. South - I actually have a couple of questions. It appears from your application from what you presented that you're proposing a wholesale facility. I won't drive in to fill my propane tank. You'll be selling to the people I buy it from, is that correct?

Mr. South: Yes, the only use of this terminal will be to load transports to go to retail dealers. You know, all the way to north Idaho throughout southern Montana, Bozeman, etc.

Commissioner Murray: Thank you. My next question is have you made any decision not to annex into the City of Helena? Is this a consideration?

Mr. South: No, Commissioner Murray, this is not our decision as it is as it is Montana Rail Link property. So, we absolutely had no say so in annexation.

Commissioner Murray: Thank you.

Chair Varone: Commissioner Tinsley, did you have a question? Thank you sir.

Mr. South: Thank you.

Chair Varone: What is the pleasure of the Commission?

Commissioner Tinsley: Madam Chair, I make a motion that we approve the proposed subdivision, summary review to be known as Superior Propane Helena Terminal Minor and authorize the Chair to sign.

Commissioner Murray: Subject to nine conditions.

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Commissioner Tinsley: Subject to nine conditions.

Commissioner Murray: Second.

Commissioner Tinsley: Madam Chair.

Chair Varone: Commissioner.

Commissioner Tinsley: I would like to amend condition of approval number one to reflect the language that was provided by staff and have staff point out any language to clarify the one sentence that the East Valley Fire Department/City of Helena Fire Department would chose from a list of qualified consultants who will do the safety analysis. Madam Chair.

Chair Varone: Commissioner, I am in agreement with all of that, but what I would like included in that is that the applicant also be a participant. Without the applicant being a participant, with the experts that they have - I think they could reach a consensus conclusion.

Commissioner Tinsley: Madam Chair, I just assumed that the was going to be the case. I don't have a problem with that.

Commissioner Murray: Second, but a further amendment would be after fire safety analysis and with mutual agreement a consultant would be hired.

Chair Varone: Good addition Commissioner and Commissioner Tinsley you accepted that?

Commissioner Tinsley: Yes.

Chair Varone: Commissioners, we have before us an application with nine conditions of approval and an amended condition of approval number one that you're going to have to massage some language, but essentially we'll say that the determination will include qualified consultants with technical knowledge to prepare the fire safety analysis and that the East Valley Fire Department the City of Helena Fire Department and the applicant will chose the individual and that it will be with the mutual agreement of all three. All those in favor...

Commissioner Tinsley: Discussion, Madam Chair. Mr. South - thank you very much for putting together such a nice proposal. We appreciate it and Mr. Eardley, thank you for coming up from Salt Lake. Please pass along to Chief Larson and also to the Eastgate folks thanks for being involved in this. We appreciate it and looks like we're going to come together on this, so thank you.

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

All three Commissioners: I

Chair Varone: The motion carries. Frank, you did a nice job on the application and the report. Thank you all.

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Intercap Loan Application, Augusta Rural Improvement District.

The Commissioners will consider the application in the amount of \$76,782 for road improvements.

Nancy Everson reported this is an Intercap Loan Application for the Augusta Rural Improvement District. This is for road improvements that are being done up there right now. The amount of the application is \$76,782. The Lewis and Clark County Public Works is currently doing the work. The original RID was created in 2001. It's been on the tax base for one year. There isn't good estimate on what the cost is going to be.

Commissioner Murray moved approval of the Intercap Loan Application to satisfy the RID in Augusta, Montana and authorized the Chair to sign. Commissioner Tinsley seconded the motion and it carried 3 - 0.

LCC Emergency Declaration. (nunc pro tunc 8/15/03)

The Commissioners will consider the declaration for wildlife fires near Lincoln.

Commissioner Murray moved approval of the emergency declaration and authorized the Chair to sign for the wildfire complex in the Lincoln Township in Lewis and Clark County. Commissioner Tinsley seconded the motion and it carried 3 - 0.

LCC Emergency Declaration & Emergency Termination. (nunc pro tunc 8/16/03)

The Commissioners will consider the declaration for wildlife fires at community of American Bar near York.

Commissioner Tinsley moved to approve the declaration for the American Bar and the termination of the same that occurred on August 16 and authorized the Chair to sign. Commissioner Murray seconded the motion and it carried 3 - 0.

Resolution Requesting Prosecutorial Assistance.

The Commissioners will consider the resolution at the request of the county attorney.

Chair Varone reported this is for assistance in cases relating to the prosecution of offenders who violate Montana's Fish and Wildlife Laws.

Ron Alles reported this is a standard resolution. What this does is put a blanket over the FWP violations. The County Attorney has requested this assistance. It comes at no cost to the County other than if we need witnesses, jury costs and other normal costs. The attorney's fees are waived.

Commissioner Murray moved approval of the resolution 2003-117 and authorized the Chair to sign. Commissioner Tinsley seconded the motion and it carried 3 - 0.

Public comments on matters within the Commission's jurisdiction.

There was no public comment

Adjourn.

Chair Varone adjourned the meeting at 10:30 a.m.

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