

NOTICE OF SUBDIVISION MEETING

August 21, 2003

Chair Varone: This is the regularly scheduled subdivision meeting, today is Thursday August 21st and it's 9:00 in the morning. To my left is Commissioner Murray, to his left Ron Alles our Chief Administrative Officer, to his left is Carol Hanel she's with our public works department, to her left is Paul Spengler he's our DES coordinator and to his left is Bill Fleiner whose on the agenda today, his left is Cheryl Green who, which I never remember your title.

Cheryl Green: Delinquent Tax Collector

Chair Varone: Delinquent Tax Collector and Carole Byrnes our Executive Secretary and Commissioner Tinsley. My name is Anita Varone. Would you please share with the Commissioners and say the pledge.

Others attending all or a portion of the meeting: Keith Allen, Gaylynn Wagner, Mike Wagner, Jim Robinson, Eric Griffin, and Joan Miles.

Pledge of Allegiance. Everyone recited the pledge.

Resolutions Ordering a Refund of Taxes/Fees/Assessments Paid.

- a. Alice S. Kraut, \$35.68
- b. Crown Trophy of Helena, \$290.70

Cheryl Green: Madam Chair, Commissioners. Alice Kraut, she is one of these mining claims that had a percentage an undivided interest in legislature mainly the Department of Revenue, I think in 2001, combined the bills into one and sent them to one person. Well somehow Alice got put back on the tax rolls for 2002 so she was actually double assessed with another gentleman who got the bill for all of the interested parties. She did pay her 2002 tax bill in the amount of \$35.68 and we're asking the board to sign.

Chair Varone: Thank you. Any questions of Cheryl?

Commissioner Murray: Madam Chair, I move resolution of order of refund of taxes/fees/assessments to Alice S. Kraut due to an erroneous assessment by the State Department of Revenue and authorize the chair to sign.

Commissioner Tinsley: Second.

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries. The next one is Crown Trophy of Helena in the amount of \$290.70.

Cheryl Green: These are personal property taxes, business taxes, Crown Trophy sending the reporting form and they lease property from Textron Financial Corporation. Well Textron also send in a property reporting form and Textron is to pay the taxes on the property that is leased from all these companies. Well both of them paid. Crown Trophy should get the refund back. This is for the year 2002, no 2003 in the amount of \$290.70 and we ask the board to sign.

Chair Varone: Any questions of Cheryl?

Commissioner Tinsley: Madam Chair, I make a motion we approve the resolution ordering refund of taxes/fess/assessments paid to Crown Trophy of Helena in the amount of \$290.70 and authorize the chair to sign.

Commissioner Murray: Second

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries

Homeland Security Assessment Consulting Agreement. (Paul Spengler)

The Commissioners will consider the agreement with Bill Fleiner.

Paul Spengler: Thank you Madam Chair, Commissioners. Good Morning. We have before us a scope of work a contract from Bill Fleiner a contractor to, a proposal to go through this huge binder that we received from State Disaster Emergency Services. I quickly want to tell you about the program the process and why we're here. The Department of Homeland Security in Washington DC, requires that all counties and jurisdictions and incorporated cities in the country go through a homeland security assessment strategy program. What this is based upon is (unknown) assessment, vulnerability assessment, and agricultural assessment. Basically it's to determine the counties and the cities within our county capability of responding to a weapons of mass destruction tact. That would be chemical, nuclear, biological, radiological explosives. The surveys were sent out two weeks ago and there are basically two. One went out to law enforcement communities to help the police departments, Helena Police Department, East Helena Police Department and Lewis & Clark County Sheriffs Office for them to do and get them in here quickly by the end of this month. Part of their assessment requests that need to be in by the end of this month is an agricultural assessment that they don't know nothing about, you know agricultural threats and the rest of it has to be done in coordination with various agencies in the county, government as well as private and financial institutions, we're talking about public works, governments administrative services, emergency medical services, health department, public works department which we have three in town. The bottom line is it's a massive survey and takes a lot of work to get through this and I got to talking to Bill Fleiner about doing it for the County. He already has done some work already such as Larry Hoffman with the agricultural assessment and I asked him to present a scope of work and a contract for the Commission to sign and he has done so. We had a meeting about it earlier last week and is open ended, so I asked him to cap it and exhibit A scope of work that he has presented does have a cap and he did present these yesterday, that I passed out for your perusal before the meeting concerning his scope of work. Again, the assessment needs to be completed by the end of next month and the after that we need to work with local emergency planning committee with our chair will meet at 3:00 this afternoon to determine based on our capability assessment or shortfall and then go to the state with a budget request based upon our capabilities and needs and what we would need to fulfill these needs for the Weapons of Mass Destruction Attack in the county and this could be anything from plans, equipment, personnel to training. Jim Green has informed us that Lewis and Clark County based upon a population of (unknown) states received from Homeland Security we could get up to a million dollars this year based on all the equipment and planning. And that's basically a brief review of the program and why we're here today.

Chair Varone: Thank you Paul. Are there any questions of Paul?

Commissioner Tinsley: Madam Chair. Paul, I just received this this-morning because I was out in Lincoln until late last night so I haven't even had a chance to review this. I did do a cursory glance at this agreement. I'm going to ask you some questions, and I know the answers to some of them, but I want them on the record and some of them I don't know the answers to - so if you feel like I'm asking a question that I already know the answer to that's why I'm asking. Have you attempted to contact any other consultants in town to get a grasp of potential to find out if there anybody else in town that can do this kind of work and to match the prices with what Bill is offered?

Paul Spengler: No I haven't. The reason I contacted Bill is that I learned from Broadwater County who had hired him to do their assessment and the reason I contacted him was because I knew he knew all the players in a number of local emergency planning committees (unknown) but, No, I haven't contacted anyone else.

Commissioner Tinsley: Okay. At another meeting you mentioned, and I don't know where this came from and it's not in here now, you had said you gave a figure of \$3,000 or 60 hours of work at \$50 an hour and now I see

that consultant is now not to exceed \$8,000. I was just curious about that.

Paul Spengler: That occurred because there was no cap, it was an open end contract and we had discussed how many hours it would take and that's how that figure got in, that's why you remember the \$6,000.

Commissioner Tinsley: Okay.

Bill Fleiner: Can I interject here, Madam Chair. Commissioner, this contract is good for six months. The work, the cap is relative to a couple of different things. First of all it's relative to the assessment. It's relative to completing that and getting it submitted in the time frame that they're due. Secondly, it's also involves the planning process of which Paul may or may not want help. The third part of this is getting the budget done which is going to be very significant and that's going to be time consuming and given all of the players that are involved in this process it's going to be a lot of work. Now, so that is set up so that the first part of this is to get the assessment done and get it in because without that you're not eligible for the allocations either in the to do any of the processes and secondarily you're not eligible, you're not going to get any equipment. I think minimally, and I'm not clear about this, but minimally they'll the letters talk about that counties have an allocation of \$50,000.00. That's pretty substantial number last of what you could receive in terms of the million dollars that Paul was talking about so if you don't do anything, the inference that I get is that you might get \$50,000.00 versus the \$311 plus what your budget reports if you don't do this process. So that cap involves all of those segments of which the most immediate help that needs to be provided here, and quite frankly, one of the reasons that counties ask me to do this is if anybody understands system management in this state, I'm probably one of the best at being able to do that. I have a long history of managing systems with my tenor at the Sheriffs Office. So that would be one reason why communities would contact me such as Broadwater or as Jefferson County did in 2002 and 2001 when they needed somebody to help manage their large crowd events which they never had any experience with. That's some of these things, there's not many people that have the experience over a long period of time that I've had to gain or be able to do this type of system management versus and than marrying them with a department or bureaucratic ongoing day to day type business and it's a very difficult mind set that people, mind change that people have to do when their moving back and forth and so I've mastered that quite frankly and done quite well with it. That's one of the reasons that I'm brought into these types of things. So the long and the short of it is that cap represents all of those areas with that experience and then consequently if he doesn't need to use me, I mean right now are intention is to get the assessment done. I don't see burning up all of that to get the assessment done, but then Paul has the ability over the next 6 months to call if he needs help in some of these other areas to get the other parts of this done.

Commissioner Tinsley: Madam Chair. Thank you Bill I appreciate that. I do understand that you have a long history working in law enforcement. My question was more geared to the fact that Helena's loaded with consultants and I just, it seems to me just right off that bat without checking to see the going right among consultants matched with their experience, why aren't we doing that and that was the reason for my questions. I have one more question, Paul, is there a reason why the folks that we have in the different areas and the different sections that are covered in this document in county government can't do the assessment themselves in-house and if so, why?

Paul Spengler: The, we've already started that with the rural fire departments. Additionally, I asked my Vista Volunteer to begin working on the assessment and as we got into it I realized that there would be the need for some personal attention meetings with folks such as the government services, administrative services, (unknown) Eric Griffin with Public Works. They could take a stab at it, but they would probably want some assistance help them through it and we're organizing meetings to get folks together. So the long and short of it is we can pass them out to folks, and we've already done this with the (unknown) the city county health department, one of these sections in Chapter 3 and we've done that as well as the rural fire departments. But we need to get everybody together as vulnerability assessment working group is called to put all the information is gathered and get it back to the state and then start working on your shortfalls and go forth and ask for the amount of money you think you need to satisfy those shortfalls. So, the answer is, I mean you could do it by sending all of the pieces out to folks but it would be better is someone would personally (unknown) and make sure that it's done properly and be able to answer any questions at meetings and getting

folks together, so. The answer is you could do it very quickly and shortly but without obviously some you could do it more comprehensive and the bottom line is having the priority for your needs to go in and ask for the money that's available right off the bat you receive \$378,178.00 in grant funds from the Department of Military Affairs they received from Homeland security and I spoke to a lady at DES before the meeting, we're going to be getting funding guidelines for that money and future funding to ensure that we follow the assessment (unknown).

Chair Varone: Thank you Paul. Any further questions?

Commissioner Murray: Madam Chair, has Deputy County Attorney Starr reviewed this contract?

Paul Spengler: He has.

Commissioner Murray: And he's agreeable with the terms.

Paul Spengler: He uh

Commissioner Murray: I've never seen a contract come through with an open-ended term on it before.

Paul Spengler: He did say that it was open ended and his recommendation would be the cap obviously which we have here. But other than that, he said it was okay.

Commissioner Murray: With the term, Madam Chair, Commissioner Tinsley, with the term the way it's set up is this contract is in effect until we give Mr. Fleiner 30-day notice.

Commissioner Tinsley: It says six months in there Mike.

Commissioner Murray: Where, engagement okay.

Paul Spengler: Well, and I'm looking at number one engagement of services first sentence '...surrender to client such consultant services as client may request'. It seems to me that that means that control there is that Mr. Fleiner wouldn't go off on his own and do how much he thinks needs to be done, but he'd be working under my direction of control of the local emergency planning committee for us.

Chair Varone: That's also an indicator under exhibit A, number 2.

Commissioner Murray: Madam Chair, Commissioner Tinsley, if I may finish my line of questioning. In the contract it provides for airfare, I'm curious to where we're flying to, I'm absolutely curious as to where we're driving to.

Paul Spengler: I agree. There is, I think the reason it wound up in here is probably standard contract, but I don't expect that to be travel time, I don't expect, you know we have to go to Custer or Wolf Creek or anywhere else.

Chair Varone: If I could respond, the question that I had when I got to exhibit A and number 2 where it says under the directives of Paul Spengler, DES Coordinator, I read that as it saying it would be under your approval if any of that were to happen.

Paul Spengler: Which makes sense to me.

Commissioner Tinsley: Paul is there any reason why we couldn't postpone this until Tuesday so I could have the weekend to read this. I just got this last night and I'd like to take a look at it

Paul Spengler: No, and I told Bill to hold off on any more work because he doesn't have a contract

Commissioner Tinsley: and number two would it be possible for you, and this is not to slight Mr. Fleiner in any way but would it be possible to do a cursory review of some of the consultants in town and see if there's any other potential people that we could look at that would be competitive with what this contract is calling for, with what their professional level and services

Commissioner Murray: Madam Chair

Commissioner Tinsley: in other words I'm just jumbling together this morning.

Commissioner Murray: Madam Chair, Commissioner Tinsley, I'm happy waiting till Tuesday. I'm satisfied as one Commissioner with Mr. Fleiner's experience also his volunteer work that he continues to do in Lewis and Clark County. I'm going to support this contract with perhaps a couple of changes to the contract that I think we have to have written in for the right job and I'm going to move approval on Tuesday keeping Mr. Fleiner.

Chair Varone: Thank you Commissioner. Now if I have a chance to respond. I too am happy with Mr. Fleiner's abilities and capabilities and will vote with Commissioner Murray on accepting this contract from him. If I may, I do have just a couple of questions that maybe we need to be clarified on exhibit A, Bill or Paul if one of you could answer this. At the bottom it says miscellaneous expenses, \$250 when you go over to exhibit B does that mean the per diem, because you have per diem under professional fees but

Bill Fleiner: Yeah, if you have travel.

Chair Varone: There is a separate one for travel and then there is one that says per diem and then there's one that just says mileage but doesn't say per diem under budget coordination. So they sort of should be similar I think and have the per diem

Bill Fleiner: Yeah the intention is

Commissioner Murray: While Bill's waiting for the exhibit, in reviewing the exhibit the miscellaneous expense I believe is printing costs

Bill Fleiner: That's right. Copying and

Chair Varone: So under mileage reimbursement \$250, does that include per diem.

Bill Fleiner: Yes, that includes all of that.

Chair Varone: Okay, than what we need to do then is because mileage means mileage so under Budget Coordination write the word per diem.

Bill Fleiner: That would be fine. The contract itself is a standard contract. I don't know where you would be sending me to much outside the confines of Lewis and Clark County and I don't envision much beyond East Helena for agricultural purposes unless I had to attend a fire council meeting or something like that as part of this report with the volunteer fire department. So this is a standard contract, so if something should come up where you want to send me somewhere I guess it's covered but I don't see it happening.

Chair Varone: But if we just add that and then under exhibit B you have to have a mileage for professional fees and the County has adopted also the federal per diem rate, so just to make it consistent can we add the word federal under per diem.

Bill Fleiner: Yeah, that's not a problem.

Chair Varone: and I really like the idea that you're only charging \$25.00 an hour for travel time. I guess maybe I'm, but I don't recall many instances where I've seen that in a contract so I appreciate you (unknown) for driving back and forth.

Bill Fleiner: I believe these fees are in and probably less than most contractors would charge for these services and that's when I set this up after I retired from the Sheriffs office it was to make it affordable to the local governments. I'm confident of the work and I'm confident of the offer that I've made to you.

Chair Varone: As am I, the initial total budget \$9,500.00(?) I was initially concerned with and was going to be recommending maybe we have that and look at it later as we get to that point, what I'm wondering now for if the, we're not going to be making this decision today for maybe the other two Commissioners to maybe take a look at approving this but then putting some sort of calendar on here saying after half of it has been spent to re-review it to see where you are and that kind of thing.

Bill Fleiner: I don't have any problem coming before you at any given time and explaining, giving you progress reports or anything like that, I don't have any problem with that at all. This clearly is driven by Paul; he directs the work that I do. We meet and chart the course as to how that work's going to be completed, and I inform him of the contacts I need to make. So, I don't get up in the morning and figure out I'm going to spend \$1,000.00 for Lewis and Clark County, that's not how it works.

Paul Spengler: Also Madam Chair, I may add that I brought Mr. Fleiner's services and the Vista volunteer (unknown) to start this process, (unknown) and Bill agreed that when Jonathon's doing something and Bill would then obviously be charging the County for it.

Bill Fleiner: and it's a learning process for him, I have every intention of using this to his advantage because that's why you have a Vista volunteer and I know how to direct that type of training so he's going to be busy when we can get together.

Commissioner Murray: Madam Chair, I move we table contract until public meeting on the 26th of August.

Commissioner Tinsley: Second.

Chair Varone: Discussion, Ron you have something you wanted

Ron Alles: I just wanted to point out that it's my understanding that this contract is paid for out of the \$378,000.00. When the documents complete in September it's that document that will be used to apply for future more supplementals or future money so we don't need the budget to spend 378, but we need it for future allocations.

Chair Varone: Thank you. Any further discussion? All those in favor of tabling until August 26th, signify by saying 'I'.

Commissioners: 'I'

Chair Varone: Motion carries. Thank you

Cave Gulch Flood Mitigation Project Change Orders and Contract Amendment.

- a. Change Orders 1-5. Phillips Construction \$6,000.
- b. Amendment No. 1. Barry Damschen Consulting for an additional \$3,510 for increase in inspection and coordination services due to construction contractor's time for completion increasing from 30 to 45 days.

Paul Spengler: The reason I'm here to make a recommendation that the Commission approve it is we had a meeting about Cave Gulch about a week ago. Paul Stahl told me that in this project county agent and I sent the Commission a memo recommending approval of the change orders that total the \$6,000 and also the attached amendment to Mr. Damschen's contract and we, the question is is that going to keep up within the limits of the budget for the Cave Gulch flood mitigation project and is estimated NRCS that use of watershed, emergency watershed program (unknown) project that \$317,000. 00 in total project is at \$281,990.00 so we're under the project estimate.

Chair Varone: So, if we approve both of these, the other one is for an additional for their adaption consulting is \$3510.00 will this still keep us under the amount or will it make us go over.

Paul Spengler: It will keep us within

Chair Varone: Could you tell us why the change orders had to happen?

Paul Spengler: Well, maybe Herb could help me with this but basically the reason they were made is that Barry was hired to be our consulting engineer on the project and he's also working the residence up there with the Phillips Construction that does sub-contracting out to actually leave the dirt for (unknown) engineering who has the design for the project and these were just necessary changes that were required to ensure that the project was done properly.

Commissioner Murray: Madam Chair, Commissioner Tinsley, Paul you need to understand this Commission has policy that we don't do change orders. We laid a program out and we expect the Public Works Director to bring in a complete project where change orders are a rarity they are to be avoided like toothaches.

Paul Spengler: I wasn't aware of these until after they were done.

(Male): I wasn't aware of them until after they were done either. I'm assuming what went on here in these \$6000.00 and change was that this was probably work in place as the contractor was doing work that they needed to do this stuff. Is what I would assume with this.

Chair Varone: What I would recommend is, until we maybe have Barry Damschen from Phillips Construction here to explain to us, that maybe we need to table the decision is that the Commissioners desire or do you want to act on it today.

Commissioner Murray: Madam Chair, I am reluctantly prepared to act on all of the change orders except Mr. Damschen's. I'd like Mr. Damschen to come before us.

Eric Griffin: If I may, Madam Chair, Commissioners, that as part of the process, Barry worked closely with the group of people out there, the people who could be picking up the balance of the project of once all the grant parties pay their fare share whatever is left over the people have agreed, they have signed an agreement to pay the balance through a Rural Improvement District and I suggested to Paul that he get confirmation from Clair O'Malley who basically is the representative of the group out there, she's a spokesman for the group that when he brought this forward to you, that he would have the recommendation from the consultant, from Barry and also to from the spokesman of the people out there. Did you visit with Clair?

Paul Spengler: I called her as soon as we had our meeting about this and learned about the changes and I told her that since the change orders were made on behalf of the residents out there to benefit this project that as a point of contact that working with the community out there that I asked her to sign a letter that I drafted up for her addressed to me stating that on behalf of the Cave Gulch residents and the Flood Mitigation Project she approve the change orders and she said she would and I mailed it to her earlier this week.

Chair Varone: But you haven't returned it yet?

Commissioner Murray: Madam Chair, Commissioner Tinsley, Paul the problem I have with this is this started out as a \$60,000.00 project, it's now \$300,000.00. It's gained more weight than I have. The poor people out there are going to be stuck paying for that and I want to be sure that their on board so that this inflationary trend that's happened in their project. So I think we need the letter from Claire but we need some indication from Claire that she and the other residents are willing to pay the increased costs because ultimately it falls on them and their tax bills to make this up.

Eric Griffin: Madam Chair, Commissioner Murray, we met last Thursday, myself, Sharon, Marni, Paul, K-Paul,

Dan McGowan from DES and where we were at the budget was laid out, Paul was in the process of collecting the commitment from the people about to \$30,000.00 or match to go towards the project and once that is collected with the change orders for the project also with their amendment to Damschen's contract that's all been laid out and that would come up with the final dollar amount that these people would have to pay for the Rural Improvement District. Staff has been out a couple different times to meet with the people, we don't have a dollar amount because we don't have the documentation of the match, so it's hard to put the whole thing together until we come up with the bottom line so that was the process that staff was headed to, to put a finalization to this project if that helps.

Commissioner Murray: Should we table this until you get your staff together, staffs recommendation that we approve this.

Eric Griffin: Madam Chair, Commissioner Murray, the work has been done. The drainage DOT is out there, they've installed both the two big pipes on Canyon Ferry Rd.

Commissioner Murray: It's actually three pipes

Eric Griffin: Three pipes, but anyway, Mike, Barry approved the work as it went forward.

Chair Varone: So it's kind of the case of lets go ahead and do it and they'll forgive us later

Ron Alles: Madam Chair, if I might, if there's any issue it may be with the contractor, but we did hire the contractor to represent the County related to that project and the contractor, as Eric stated the way the project went as the sub-contractors were out there doing the work, our representative authorized them to do whatever the additional work was as it's outlined in these change orders so, I would recommend Commissioner Murray's approach and at least approving these change orders, they were done by our representative and if there's any issues than we take them up with the contractor, Barry Damschen next week have him come in does that seem appropriate?

Chair Varone: Commissioner Tinsley?

Commissioner Murray: Madam Chair, I move we approve the change orders and authorize the chair to sign.

Commissioner Tinsley: Second

Chair Varone: Both?

Commissioner Murray: No

Chair Varone: The change order for Phillips Construction

Commissioner Murray: Yes, the change orders

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Commissioner Murray: Madam Chair, I move we request, we table Mr. Damschens change order and ask Mr. Damschen to visit with us at a Public Meeting on the 26th.

Commissioner Tinsley: Second

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Commissioner Murray: Madam Chair, the 26th is a

Chair Varone: The 28th

Commissioner Murray: Tuesday, If Mr. Damschen is more comfortable doing it on the 28th that would be fine.

Chair Varone: Motion carries. You know, when I read these last night Ron, my concern was that there's no explanation and it was just, when I read it I thought okay, Barry's going to be here, Phillips Construction is going to be here, I had no expectation for staff to be here because I didn't think they should be the person up here telling us why and that's after all what the contract, I'm sort of hesitant, I was hesitant to approve the change orders even with Phillips Construction because at a minimum there should have been a letter of explanation from them. And so with hesitation I agree to it, but the very bottom line is the guy, so he will be here.

(Male): Madam Chair, Commissioners, I believe that if I believe that if Mr. Damschens daughter is getting married and if that wasn't the circumstance I believe he would have been here.

Chair Varone: When a letter still should have been sent and that's perfectly okay with me. We need just a short break.

Resolution Levying an Assessment on Customers of the Scratch Gravel Solid Waste District who owe a Pay-As-You-Throw Charge as of August 11, 2003 and own a Mobile Home. (Janet Pallister)

The Commissioners will consider the resolution.

Carol Hanel: Good Morning Madam Chair, and Commissioners. In accordance with the policies set forth in the Pay-As-You-Throw program, I compiled the data for the period July 1st 2002 through June 30th 2003. And in that data attached to your resolutions is a listing of those who exceeded their two-ton limit for that time period owing \$7.00 or more and in your packet there are two resolutions. One is for mobile properties, one is for real properties and these upon your approval will be placed onto the property tax for these individuals split between the first half and the second half. We did extend, we have a deadline we give them until July 31st to pay any outstanding balance over the two-ton limit and in accordance with request of the Scratch Gravel board we did, we directed staff to extend that time period into August so we'll be into the second Monday in August, so through August 11th we were able to accept late payments for those.

Commissioner Murray: Madam Chair, Commissioner Tinsley. Carol, these people have received notice that this was going on their tax bill?

Carol Hanel: Twice, yeah.

Commissioner Murray: Twice.

Carol Hanel: The first time they exceed their limit, the first month in which they exceed their limit they're sent a letter explaining the program and the deadlines, and the notification of procedures and then July 7th actually the letters went out with all of the data as of June 30th explaining that they have until July 31st to pay that or it would be placed on their taxes.

Chair Varone: Did you receive any phone calls from, some of these peoples bills are extremely high?

Carol Hanel: No, actually we didn't. We had a lot of payments and then these were the ones that did not pay. I also provided a little bit of information on the cover memo with this packet, some data from last years pay-as-you-throw charges to give you an idea as to where we are sitting this year.

Chair Varone: Any other questions of Carol?

Commissioner Murray: Madam Chair, I move approval of a resolution levying and assessing a tax fine upon customers of the scratch gravel solid waste management district who own mobile homes as personal property in the district and owe a pay-as-you-throw program charge as of August 12th and authorize the chair to sign.

Commissioner Tinsley: Second

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries

Resolution Levying an Assessment on Customers of the Scratch Gravel Solid Waste District who owe a Pay-As-You-Throw Charge as of August 11, 2003 and own Real Property.

The Commissioners will consider the resolution.

Commissioner Murray: Madam Chair, I move, unless you want to, I move a resolution levying and assessing upon customers of the scratch gravel solid waste management district who own real property in the district and owe a pay-as-you-throw program charge as of August 12th and authorize the chair to sign.

Commissioner Tinsley: Second

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries

Resolution to Abandon a Segment of Glen Avenue Between Woodard Avenue and Floweree Avenue Blocks 10 and 11 of the Highland Park Addition and Signatures on Quit Claim Deeds. (Michael McHugh)

The Commissioners will consider the resolution and quit claim deeds from LCC to John & Joan McQuillan, Walter & Charlotte Hanley, and Maureen Wilson-Doubek.

Michael McHugh: Commissioners, this is Resolution 2003-117. A public hearing was held on August 13th, 2002 at that time the Board of County Commissioners voted to abandon an undeveloped right of way that was approximately 300 feet in length and 70 feet in width and give the adjoining property owners equal access to that property. There were four conditions of approval, all those conditions have been met, all the taxes for the affected property are current and staff recommends signature of final plat by all Commissioners and signature of the resolution and quick claim deeds by the chair.

Chair Varone: Thank you Michael, any questions of Michael?

Commissioner Tinsley: Madam Chair, I make a motion that we approve the resolution to abandon a segment of Glen Avenue between Woodard Avenue and Floweree Avenue Blocks 10 & 11 of the Highland Park Addition and Signatures on Quit Claim Deeds and authorize the chair to sign.

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

Michael McHugh: and for the record, exhibit A it is the plat that the Commissioners will be signing.

Chair Varone: Thank you Michael. All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries

Requests for One-Year Extensions of Preliminary Plat Approval.

- a. Holter Lake View Tracts, Lot 9 Amended Minor Subdivision to July 9, 2004. (Applicant, Marvin DeBuff) (cont. from 8/12/03) (Frank Rives)
- b. Sweeney Tract 23 Minor Subdivision to April 19, 2004. (Applicants, Mike & Galynn Wagner) (Jerry Grebenc)

Frank Rives: Madam Chair, Commissioner Tinsley, At the request of the Commission I have sent a letter to Mr. DeBuff and his representative Ed Casne asking for clarification on what they have done as far as due diligence. I received a letter from Mr. Casne outlining what they've done so far on their as far as meeting their conditions of approval, staff reviewed their, the letter and are satisfied that he has done due diligence and would recommend extension.

Chair Varone: Any questions of Frank?

Commissioner Tinsley: Madam Chair, I make a motion we approve the request for one-year extension of preliminary plat approval, say that three times, for the Holter Lake View Tracts, Lot 9 Amended Minor Subdivision to July 9, 2004 and authorize the chair to sign.

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

Commissioners: 'I'

Chair Varone: Motion carries

Jerry Grebenc: Madam Chair, Commissioner Tinsley, This is a 4 lot minor subdivision located as you go up Highway 12 towards the pass and it was granted preliminary plat approval on April 19th of 2001. The applicants have had subsequent extension requests approved. They have exhibited due diligence and staff recommends signature or approval of the extension and if you have questions as to the late date, this should have been done back in April, the applicants are present and in the audience.

Chair Varone: The letter was very clear, my only question Jerry is this the last extension that they can be approved.

Jerry Grebenc: Madam Chair, let me do some quick math. It was granted approval in 2001, 2, 3, 4 they have until 2005 to complete the project.

Chair Varone: It looks like a lot of the work has been done. Mr. And Mrs. Wagner since you're here if you have anything you'd like to say.

Mr. Wagner: We're almost done with everything.

Chair Varone: Yeah, that was pretty clear.

Commissioner Tinsley: Madam Chair, I make a motion to approve the request for the one year extension of preliminary plat approval, the Sweeney Tract 23 Minor Subdivision to April 19, 2004 and authorize the chair to sign.

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

Commissioners: 'I'

Chair Varone: Motion carries. Thank you, all of you and Jerry for catching this and getting everything needed.

Water Court Case No. 411-4, Stipulation and Agreement. (Will Selser)

The Commissioners will consider the agreement for the 1880 Seven Mile Creek water rights claims.

Ron Alles: Madam Chair, Commissioner, I called Will when the meeting started. When Will receives this stuff concerning these water rights, he forwards them on to K-Paul. So, I believe K-Paul is not in town right now, I believe this has something to do, I haven't even seen it, it has something to do with out at the old landfill, the 10 acres where the detention pond is, so I would recommend that this be tabled for the time being because I don't even know, we did not put this on so.

Chair Varone: Actually, I read this and understood only a part of it. There's a note here from Will to Paul Stahl saying if this looks okay, please forward it to the BOCC for their signature, Thank you. And then there is a note from K-Paul dated 08/14 that says looks good, go ahead and sign.

Ron Alles: Then I would, if that's Paul's deal, it's been through our review process and I would say it's, if Paul says it's okay.

Commissioner Murray: I hold we approve it as a recommendation of the County Attorney and authorize the chair to sign.

Commissioner Tinsley: Second

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries

USDA Memorandum of Understanding. (Nancy Everson)

The Commissioners will consider the annual MOU with the USDA and Montana Wool Growers Association. Lewis and Clark County to allocate \$2,000 for the protection of sheep from destructive animals.

Ron Alles: Madam Chair, we do this annually and these are funds that are collected on per-head basis I believe at 60 cents so it's wool growers paying this so this is just our agreement with USDA for those services we essentially passed on through.

Chair Varone: So, it's protection of the sheep so the wolves don't get em.

Ron Alles: or dogs

Commissioner Tinsley: Coyotes. Or cattle breed hunters that think they're antelope

Commissioner Murray: Poor coyotes that are shot out of airplanes. I move approval and authorize the chair to sign.

Commissioner Tinsley: Second

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries

State of Montana Tax Bills under \$5.00. (cont. from 8/14/03)

The Commissioners will consider the tax bills.

Ron Alles: Madam Chair, No, we're not ready. We are, we met with the Department of Revenue, Cheryl Green, Paul Stahl, members from the Department of Revenue. We're preparing documentation now that will likely seek an AG opinion so it's going to take some time to put all that documentation together. Commission has taken action which essentially told staff not to allow any assessments to be taken off, I can't think of the word, I apologize, it's when the property is delinquent people, assignment, we're not allowing assignment to be taken on the state property, we just postponed that until we can get this.

Chair Varone: Well, we do have to assign a date to take a look at this, do we not?

Ron Alles: Yeah, and I would ask that we extend it a month.

Commissioner Murray: Madam Chair, I move we table this item until the 28th of September, the 18th of September, excuse me.

Commissioner Tinsley: Second

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries

Contract - Fire Suppression System, Inc. (Janet Pallister)

The Commissioners will consider the contract to upgrade fire alarm system in the Law Enforcement Center, \$9330.

Eric Griffin: Madam Chair, Commissioners, Before you is a memo from Janet Pallister, attached with a contract with Fire Suppression Systems. Our current fire alarm system is approximately 13 years old, outdated and sends out an erroneous alarm message for an alarm device that does not exist. Helena Fire Marshall has required that the main control panel in the existing system be upgraded. We received bids from other local vendors for this work, as notice that this Fire Suppression Systems is out of Bozeman; the other vendors don't have the capability to match the equipment that is already in this already in the law enforcement center. Fire Suppressions out of Bozeman is able to do this. So, I believe we've tried to use local people, it's not there, it would be much more expensive to do this so after doing this research, I guess I would recommend to the Board of County Commissioners approve the contract with Fire Suppression Systems for \$9,330.00 and authorize the chairperson to sign the contract.

Chair Varone: Eric, do you know if this company pays the prevailing wage?

Eric Griffin: Madam Chair, I don't know.

Commissioner Murray: Madam Chair, I think looking at the award agreements they must meet (unknown)

Eric Griffin: Madam Chair, Commissioner Murray, Law requires us when contracts are in excess of \$25,000.00 that we include that language. It doesn't require us that we have to when the projects are under \$25,000.00, when it's over \$25,000.00 the language must be included in contracts.

Ron Alles: I think if we're going to add that language we better wait because if in fact the contractors not we're going to require him to do that and we better wait because he bid that based upon whatever his existing scale is, so. I don't know that he's not, but if he is not the price went up so.

Commissioner Murray: Madam Chair, Commissioner Tinsley, I'm prepared to make a motion that we approve the

bid award and notify the contractor that we're going to hold him to the State standards and allow him to give us a requested increase if that's necessary.

Eric Griffin: Madam Chair, Commissioners, so what I'm hearing then is that any contract we have under \$25,000.00 you're going to require the language be included in the contract to pay the Davis-Bacon Wages.

Commissioner Murray: The chair didn't say any contract, she said this contract.

Eric Griffin: Okay.

Commissioner Murray: It's something that I think all three Commissioners encourage and want is prevailing wages paid if people are working on County projects.

Chair Varone: Keith Allen is here today and Keith do you have anything you'd like to add or questions or anything to say?

Keith Allen: Madam Chair, County Commissioners. When Davis-Bacon prevailing wage laws were initiated it was so that when tax payer money was used for construction projects that out of area contractors or even in area contractors wanted to use that tax money to undercut the prevailing wage so we as organized labor always encourage all tax money for construction projects be used to include the prevailing wage efforts.

Commissioner Tinsley: Second. You never got a second for your motion.

Chair Varone: Oh sorry. All those in favor of the motion to approve the contract based on discussions with Lynn Perkins who is the president of Fire Suppression Systems to include language that as Davis-Bacon prevailing wage language, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries

Poorman Creek Bridges Variance Request. (Eric Griffin)

The Commissioners will consider the request to replace two undersized culverts on the South Fork Poorman Creek Road with bridges.

Eric Griffin: Madam Chair, Commissioners. Before you is a memo from myself with a letter from myself to Mr. Robinson. Jim is here with us today and also too a letter from him requesting this, this is the project that I have tried to keep everybody informed of as we have went down the road with it, I guess, this is on the South Fork of Poorman off of the Semple Pass Road. This is a road that we do not maintain, it is a forest service type road in nature, I believe some of the Commissioners have been on this road. Mr. Robinson orchestrated tremendous partnership with US Forest Service, Montana Fish Wildlife & Parks, US Fish & Wildlife, private landowners and Lewis and Clark County. Before you are five variances to these bridges. One on the North Fork of Poorman and then also too there is a bridge just up the road on the South Fork of Poorman and these five bridges would be, the bridge width allow 15 foot travel way to 24 foot travel way. I guess maybe I'll speak to each the 15 foot travel way, the 24 foot travel way the road is a one lane bridge at this time, the road is one lane, I see no reason to put in a full 24 feet when the road is only basically less than the 15 feet that it is now. It'll allow timber curbing versus our guardrail, this was preferred by Charlie McKenna from the Forest Service. This is how they typically put the rail on their bridges; they put those wood curbs on those bridges. Charlie would prefer that versus the guardrail. It's more nature to the character of the situation up there. It'll allow a depth of riprap to 2 ½ feet versus 2 feet versus 2 ½ feet. We'll allow, we visited with Mr. McCauley from Entranco, Charlie McKenna, all of us are comfortable allowing them to go 2 feet with the riprap in the soil versus 2 ½ feet. Quality Control, allow the design of the bridges to be by a professional hydrologist and registered engineer versus our standards require the design, the total design be by a registered engineer. This is a, as I said, Jim, everybody in it it is a partnership to complete this so the hydrology and how the bridge lays out were designed by Jack Thomas. Dan McCauley has reviewed the entire set of prints engineered by the

name of Muth from Missoula stamped all but the first two sheets of the plans.

Commissioner Murray: Why not the first two sheets?

Eric Griffin: The first two sheets are hydrology on what the flows would be and how much water would come up and down, you know, would pass through the, pass through the opening and also too on how the bridge would lay out in accordance with the road. Is that?

Jim Robinson: Right, the contractor Jack Thomas

Chair Varone: Excuse me sir, are you

Jim Robinson: I'm sorry, my name is Jim Robinson.

Chair Varone: Thank you.

Jim Robinson: Madam Chair, Commissioners, the contractor, the designer on the bridges is Jack Thomas, Hydrotech and he did the hydrology and hydraulic calculations to estimate the size of the hundred year flood event and placed that on the cross sections so that you will be able to get an understanding of how much free board there would be between the water surface level at a hundred year flood event and bridge gap and to ensure that met county standards for that amount of separation.

Chair Varone: Thank you, sorry, are there any further questions of either Eric or Mr. Robinson.

Commissioner Murray: Madam Chair, Commissioner Tinsley, what's our liability by granting a variance when we don't have to have an engineer putting his license on there, the first two pages.

Eric Griffin: Madam Chair, Commissioner Murray, I wrestled with this in my mind when we started this entire project. I think anything and everything that we do we assume some risk. In this situation, the North Fork has been my, to paint a picture the North Fork of Poorman right now has a 12" pipe Jim? Maybe

Jim Robinson: No, this one, both of the culverts are under sized, they're, the existing ones right now are 36" and they will not pass the hundred year flood so they present a risk of washout now. So that's part of the (unknown) for wanting to replace these. I live downstream and have done considerable work in the past to try and rehabilitate the stream challenge through my section of the property and so part of my (unknown) for orchestrating these projects is to protect the identity down this stream. So, I don't know if that answered your question.

Eric Griffin: and maybe a little bit more on that, the one pipe that we're replacing we're going to a 16 foot bridge and the other pipe we're going to a 25 foot bridge. So in my opinion for the County, etc, for the situations that we're doing up there, are going to be much much better than what we have in there now and I would recommend that we allow this, that we do this, that we pass these variances on this.

Chair Varone: Commissioner Tinsley?

Commissioner Tinsley: Eric, Madam Chair, Commissioner Murray, (tape ended)

Eric Griffin: Madam Chair, Commissioner Tinsley when Jim came into my office last week as we talked, as we sat down and we talked about this, I believe or I noticed in Jim's eyes that the light came on as to why the seriousness or our concerns such as Commissioner Murray stated too from a liability standpoint for entire of Lewis and Clark County that for us to get a total set of prints, a complete set of prints so we could sit down and have our engineer, etc. approve these and say this is what we want, this isn't what we want. There's some factors that have played in here to Commissioner that in this drainage our timeline is extremely tight due to the bull trout, you basically can get one month to do. I've shared this with Jim with all the partners and the benefits to the stream, the drainage, the fish, etc. I believe it's a good project, it's not a textbook thing on

how we do things, but I think with all considered it's the right thing and recommend that we move forward.

Commissioner Tinsley: So it's understood that stamping one page of a document doesn't, that engineer doesn't make that entire document.

Eric Griffin: Absolutely, every page of these prints, the structural part of what the bridge is, the curving, etc have all been stamped by a registered professional engineer in the State of Montana. The only sheets that haven't, I wish I would have brought a set with me, but I've already given them to our staff, the sheets that weren't were the hydrology calculations which are attached here, our people have approved them or they've looked at them but Dan(?) won't stamp them without him doing them so

Commissioner Tinsley: Absolutely

Eric Griffin: and I believe too, if I may, I know we're running behind schedule here, but with Jim's, as Jim stated to what's going to happen downstream past work by what Mr. Thomas has done and all the parties involved to make it better, I really think we want to do the right thing. They changed the length, the one bridge after we started this conversation a couple of weeks ago from a 16 foot bridge to a 25 foot bridge to make sure we had the proper flows and everything through the structures so it, things have been in change since everyone started reviewing this thing, so it would be my recommendation to

Chair Varone: Anyone have any questions? What's the pleasure of the Commission?

Commissioner Tinsley: Madam Chair, I make a motion we approve the variance request for the Poorman Creek Bridges and authorize the chair to sign.

Commissioner Murray: Second

Chair Varone: Discussion. There's no language, no documentation past the signature on this and I think we really need to establish something so that we can have it on file that not only was it approved but that we have a signature on file so if we pass this Eric would you have something for me to sign.

Eric Griffin: Sure

Commissioner Murray: Madam Chair, if I could offer an amendment, Commissioner Tinsley, I would like to recommend that you're motion to grant the variances be contingent upon the County receiving the proper variance request on County Forms required.

Eric Griffin: Madam Chair, Commissioners, I usually am not involved in variances so I, this was my method of doing this.

Chair Varone: Maybe Michael, since you raised your hand

Michael McHugh(?): Commissioners, in order to grant a variance you have to do final plat and adopt any conditions, get staff recommendations, finding of facts in the affirmative in this variance if you agree to

Chair Varone: I move that since we approved it, that we will be approving it a letter in this instance would suffice just as long as we have it in the file.

Commissioner Murray: In the findings packet there's a place on the form where they can have justification

Chair Varone: I mean you have it all here, if you'll just attach it to it

Eric Griffin: Okay, and Madam Chair, Commissioners, for the record, the project is, they are working on it now and will be working on it next week, just

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries

Letter to MDT Re: Craig Bridge. (Eric Griffin)

The Commissioners will consider the letter to MDT allowing Richard Frank to keep his boat ramp after conveying an easement to Lewis and Clark County.

Eric Griffin: Madam Chair, Commissioners, here is a quick diagram I think will probably be the easiest way to explain this. What the situation is, is on the construction on the new Craig bridge, the gentlemen down stream, the DOT is right here if you look at this, here is the existing house. DOT is in the process of negotiating an easement with this gentlemen, basically this is the end of the retaining wall, this easement here is from the orange arrows down which will allow us an easement to go in and do maintenance on this retaining wall and also to if we have to get in there to work on the riprap, these types of things. This gentlemen here is in this easement, also too he has basically launched his boat, his raft, his fishing boat whatever for many years. When DOT usually grants easements, they take that easement, fence it off and they don't allow anybody to use that easement. Well in this situation what is what DOT is negotiating is that this easement which will be in Lewis and Clark County's name, that we continue to allow this older gentlemen to go ahead and use this easement for his boat. So I would, I have talked to the right-of-way specialist in Great Falls and Bob Modrow(?) the designer and it's just the right thing to do in this situation.

Commissioner Murray: Madam Chair, Commissioner Tinsley, Eric, by emphasizing the individuals name or his age are you proposing that we grant it for his life, that this easement would grant to his heirs? What are you proposing if he's an older gentleman and your emphasizing gray hair, some of us in the room here

Eric Griffin: Well, what the letter says Commissioner is based on the above information we allow the boat ramp to remain, and Richard Frank will be allowed to use the boat ramp as he always has.

Commissioner Murray: That's how I read it to, for the life of this individual.

Eric Griffin: That would be how I would read it.

Commissioner Murray: Not to his heirs, not if he sold his property

Eric Griffin: I could check on that, I just didn't think about that. I think, my opinion is that this bridge is coming in; we're building this huge wall right next to this guys cabin it's probably going to go to an heir etc. that it should, as long as they want the boat ramp it should be there I would think.

Commissioner Tinsley: Could we amend this at all.

Eric Griffin: Sure, we can change any way that we want.

Commissioner Tinsley: Madam Chair, I'd like. Madam Chair, I make a motion we support and approve this letter allowing the boat ramp to remain and remain on Mr. Franks' property and change to immediate family members.

Chair Varone: I accidentally signed this, so we need to sign that original away.

Commissioner Tinsley: I guess what I'm saying is let the record reflect that we intend for his heirs to be a part of the same right.

Eric Griffin: Okay, if I understand correctly though, if they sold the property it goes away.

Chair Varone: I think it should remain part of the property.

Michael McHugh: Usually when you establish an easement it usually is to the heirs or assignees

Chair Varone: and that means who ever they sell it to

Commissioner Tinsley: That was my intent, heirs and assignees.

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries

Public Comments on Matters Within the Commission's Jurisdiction.

Keith Allen: Madam Chair, Commissioners, Keith Allen with IBEW, Thank You for your understanding and willingness with the prevailing wage issue. I understand that this well adds a extra cost to this project and coming from the construction industry, not telling you how to do the job, just an idea, a letter to Fire Suppression Systems it's probably in their contract how many labor hours they thought this might take and maybe a letter saying I understand it's going to take 'X' amount of hours, would you let us know what you're costs per hour is and then if they respond to that you'll know from there too the prevailing wages that it should only increase by about 'X' amount of money because in construction after the fact you go 'oh gees I forgot this \$2,000.00 part and it's real easy to make it up now because of the extra money and I can say it's going to cost me \$30,000.00 because I have to pay prevailing wages and so that's just an idea and also I would need to know who the contact person will be for certain types of (unknown) so I can inspect those and I'm also willing for free to help the County or whoever the contractor officer is to go over those and find any discrepancies and deficiencies.

Chair Varone: Keith, why don't you get together with Sheila Cozzie, she's our personnel officer, is she in today.

Ron Alles: She is, we don't track the contractors payroll. So, I guess what I'm hearing is that you want us to require that in a contract that they give us are certified payroll for all, for this contract.

Eric Griffin: Madam Chair, Commissioners, Ron, we received certified payrolls and then Janet sits down and very painstakingly goes through every, we do it on all our projects where this is required and you're more than welcome to sit down and review and do whatever you want to do, we'll sit down and you can look at them. I have no problem with that.

Adjourn.