

## NOTICE OF SUBDIVISION MEETING

September 4, 2003

Chair Varone: (tape started)... it's 9:00 in the morning. To my left is Commissioner Tinsley; to my right is Ron Alles.

Commissioner Murray: No, I'm Murray and I'm on your left.

Chair Varone: What did I say?

Commissioner Murray: I'm on your other left.

Chair Varone: To my right is Commissioner Tinsley, I'm not with it today, I apologize. To his right is Carole Byrnes, our executive secretary, to her right is Sharon Haugen our Director of planning and opposite the table from us is Paulette DeHart our Clerk & Recorder, Treasurer Clerk & Recorder and I believe everyone said the pledge on the way to the meeting today.

### Pledge of Allegiance.

### Bid Opening.

The Commissioners will consider opening bids for "FSA 284 Cold In-Place Recycling."

Chair Varone: This is for the strip of property of road between Broadwater and Lewis and Clark County lines. We have two bids that have been provided, office staff, accidentally opened one of them but did not look inside or read any information. The first bid is from Tom Johnson, Mid State Reclamation from Lakeville Minnesota. I'll pass them over to Eric Griffin.

Eric Griffin: We need to acknowledge the, on the envelope FSA 284 Cold In-Place Recycling was on it. We have a bid bond in the amount of 10% of the bid. I will read the numbers, item and description mobilization one quantity, \$50,000.00, cold recycling without lime slurry processing per square yard, \$275 per unit price, 40,000 square yards, \$90,000.00 for that, for the liquid emulsified asphalt, quantity 160 tons at \$340 per ton, for \$48,000.00, traffic control lump sum \$12,000.00 for a grand total of \$200,000.00 from Tom Johnson Mid State Reclamation.

Chair Varone: The second bid is from Chuck Valentine, Valentine Surfacing out of Vancouver Washington.

Eric Griffin: FAS 284 Cold In-Place Recycling in on the envelope. We do have a bid bond 10% of the total amount. Bids are signed. I'll read again, we have a mobilization, one unit \$12,000.00, cold recycling 40,000 square yards at \$1.00 per unit price for \$40,000.00, the liquid emulsified asphalt per ton \$1.60 per ton, or \$160.00 per ton, unit price \$300.00 for \$48,000.00, traffic control at \$4,500.00 for a total price of \$104,500.00. My recommendation to the board would be to have staff review these bids and hopefully have them on the, be able to make a bid award on next Tuesday is what I would like to shoot for here.

Chair Varone: Consensus from the commission.

Commissioner Tinsley: I make a motion that we allow staff to consider the bids and bring back a recommendation for us next Tuesday, which is September 9<sup>th</sup>.

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

Commissioners: 'I'

Chair Varone: Motion carries. Thank you Eric.

Chair Varone: Ron Alles, our Chief Administrative Officer, note for the record just came into the room to join us. Welcome.

**Final Plat Approval for the Amended Plat of Seven-Up Minor Subdivision, Lot C and E-1.** (Applicants, Jennifer & Ralph Taylor) (Michael McHugh)

The Commissioners will consider signing the final plat.

Michael McHugh: Commissioners, this is a two lot minor subdivision that received preliminary approval on June of 2002 with eight conditions. All those conditions have been met. Staff recommends signature upon final plat.

Chair Varone: By consensus.

Commissioner Murray: You bet

Commissioner Tinsley: Yep

Michael McHugh: I'll leave this with Ms. Byrnes for when you have an opportunity

Chair Varone: Thank you.

**Resolution Ordering a Refund of Taxes/Fees/Assessments Paid.** (Cheryl Green)

The Commissioners will consider the refund to Michael Crowell in the amount of \$95.89.

Mike Noble: Mike Noble, Department of Revenue. Madam Chair, Board of Commissioners. Mr. Crowell was taxed for an unfinished basement in his house but in actuality it was a crawl space. He came in, I think at the end of 2001 and requested a change and we changed it in 2002 and then he subsequently came in I think it was a couple months ago I think it was and requested a refund for tax years 2000 and 2001. The difference in calculation, I think he requested \$151.58, we calculated it at \$95.89. I talked to Mr. Crowell yesterday on the phone and I'm not sure where his figure came from, whether someone on our staff calculated incorrectly or if he calculated it himself, that's not clear, but I explained to him why it would be lower as it run through the phase in and through the exemption and etc that we're mandated to do. At any rate, the correct calculation should be \$95.89 for the two year and that's the end of my story.

Chair Varone: Well perhaps I can fill in a little bit. Mr. Crowell visited with me quite some time ago he was really confused and I think a process needs to be put in place that both the Department of Revenue and the County can maybe work together when people come in and they have questions. He was told somewhere along the way that he couldn't even apply to get a refund of the two years and so he contacted me basically to complain and then I went into Cheryl's office and I went into your office, Cheryl was gone so I went to your office and there was a fellow in there that calculated the refund for me and gave me that information. That information came from a guy in your office to Mr. Crowell and I'd assumed that since your office calculated that it was at least within a few dollars of being accurate because that's what the individual told me and I gave it to him and he went and finished the process. So that's how that happened, but it's happened more than once where somewhere along the way people either misunderstand or misinformed or a combination of both or maybe are afraid, I don't know but I really think there needs to be some sort of education or helping people along the way regarding that because often we have people come in here and they don't know that they can request a refund and what the process is and so that's that story. Commissioners any questions?

Mike Noble: Madam Chair, Board of Commissioners, I'll make sure that our staff is, since this comes up on a regular basis, what circumstances constitute a refund when there's errors made and I always thought, apparently incorrectly, that handing over the form that the taxpayer fills out and the only thing I can think of in the incorrect calculation was they forgot to account for the exemption as well as the phase-in, I'm not sure on that, but I had the appraiser on record on this do the calculations and that's where it came from so sorry about that. I will again when I meet with staff I will ensure that they, usually communication pretty well with Cheryl so there shouldn't be that kind of a problem. I wouldn't say that we encourage the taxpayer to do a refund, but if they ask about it, if they say what about back here, then we say here's a form go fill it out and

bring it on over to our office or Cheryl's office and then generally I coordinate with Rob who coordinates with Cheryl.

Ron Alles: Madam Chair, I think, well this is more formally a question Mike, isn't part of the confusion, you know when Department of Revenue sends out assessment notice which essentially has the valuation of your property, doesn't the statute say you have 60 days to appeal that valuation or some time period, I can't recall the time period exactly or thirty days to appeal that valuation so technically the statute wouldn't allow us, say I found an error in my property in the valuation three years later, technically the statute wouldn't allow me to go back two more years, is that correct?

Mike Nobel: Ummm

Ron Alles: We allow, I mean the county does issue refunds that go back there, but could, the commission wouldn't necessarily have to go back the two years based upon the valuation, correct?

Mike Noble: There's three laws that come into play here. One is the one that Ron is talking about is that once we send out values the tax payers have 30 days to come into our office, fill out the form, and we review it. Once we review it and send it back to them, then they have 30 days if they choose to appeal it. They also have 30 days to appeal after they receive their assessment if they don't want to come to us. So that's why on the thirty days. However, there's another law that I don't know that it mandates it, I'm trying to think of the exact wording, there's another law that directs the Department if we find an error and that's when we have a problem, what's an error, what isn't an error. It directs us, if we have an error to correct that error and send out a revised assessment thereby extending new rights to the taxpayer to send out this assessment. So let's just say that two years down the road taxpayer comes in and we look at the record and go 'wow' for whatever reason the (unknown) was calculated incorrectly, calculated doubled, we've had that happen. A double, the taxpayer hasn't noticed it. At that point, since that is such a gross error we correct it, the taxpayers say what about the other years and we hand them the form. Now let's say a taxpayer comes in and wants us to review the property and there's no errors, there may be a need of a review, but if it's after that time frame we don't review it until the following year and we make some changes, say we change the gray, we change what's called the CEU it's appreciation factor because we're actually looking at the house, those aren't really errors, those are just things we didn't know about - there's a fine line there and if we make a change on that I would probably be here saying something different. Perhaps the taxpayer didn't take advantage of the rights that Ron's talking about. So there's that, and the third law of course is the one that allows you to make a decision on whether to refund or not. So there is distinctions there, I guess in my mind, to make the story even longer, if there's an error big enough we're going to correct it for the current year and like I said we don't tell the taxpayer, they have to ask. I don't think it's our job to solicit that and maybe you think otherwise but, that's kind of, I don't know if that's long winded Ron, but that's kind of how those laws run together like that. We can correct an error any time, but what exactly is an error, that's the line of distinction.

Chair Varone: Thank you. Any questions? What's the pleasure of the commission?

Commissioner Murray: Madam Chair, I move a resolution order refunding taxes paid to Michael L. Crowell due to an assessment, an erroneous assessment in the amount of \$95.89 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. Thank you.

**Rocky Mountain Development Council Estoppel Letter, Pheasant Glen Investors' 3<sup>rd</sup> Contribution.** (Sharon Haugen)

The Commissioners will consider signing the letter.

Sharon Haugen: Madam Chair, Commissioners, what you have before you is the letter to be signed by the Board of County Commissioners verifying that we have given to Rocky for the benefit of Pheasant Glen construction \$498,500.00 in community block grant money and they have used it for the construction. This letter is part of the due diligence requirements for the tax credits that were given to the project. The county was with the community block grant application and project is almost, is actually complete but we have \$1,500.00 held back until we do complete close-out. I'd be happy to answer any questions the commission may have.

Chair Varone: Thank you Sharon. Any questions?

Commissioner Tinsley: Madam Chair, I make a motion that we approve the Rocky Mountain Development Council Estoppel Letter, Pheasant Glen Investors' 3<sup>rd</sup> Contribution 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

**Commission Districts.** (cont. from 9/2/03)

The Commissioners will consider the new district boundaries.

Chair Varone: Paulette, do you have anything you'd like to say before we make a decision?

Paulette DeHart: Madam Chair, County Commissioners. First off I want to make sure everyone's got copies of the maps we're talking about. I'd like to talk a little bit about the process used. Montana Law requires that after each federal census, the county commissioners divide the county into three districts and the law requires that division to be as compact and equal in population as possible. Not registered voters, but population. So we worked with the 2000 census and what we used is GIS and the elections office. We took the 54 newly created precincts and we took the old county commission districts and laid them over those districts and then we moved and made changes to make it as equal as possible staying within the house district lines, staying within the county lines and that is what your maps represent. The changes are, do you want me to go through the changes or are you all aware of them. The county line map, the changes are above Craig all the way up to the 200. There's a small amount of land in that area that used to be in district two and its now in district one. Then when you go to the North Valley map, east of district two where (unknown) comes in to a point, that used to be in two, it's now in three and then the Southeast corner of Lake Helena, just a small piece of property there that used to be in one and now is in two and those are not really heavily populated areas, those are your land exchanges primarily. More heavily populated areas is the City of Helena and that's the third map and what happened was in the Lincoln School area there is approximately 10 blocks, that's right about in the center of the map, there's about 10 blocks that's now in two and it used to be in one. There is a small triangle of land on the east side of the interstate that has got no residence, no population in it that used to be in one and now that is in two. South of the courthouse there's about two blocks that used to be in three and now that's in two. And that's about all the changes. That is all the changes from the previous districts. If a Commissioner, if a commission district had Lincoln, had Augusta, had Wolf Creek they still, that district still has those towns. Questions?

Chair Varone: Any questions?

Commissioner Tinsley: Madam Chair, Commissioner Murray. Looking at some of the maps, I noticed we did ask for R.J. Zimmer and I guess Art and Rita, make sure all the boundaries are correct before we sent them in and

I see some bleed over on these maps, is that just because of the printing.

Paulette DeHart: It is, and these maps when Commissioner Tinsley's talking about sending them in, he's talking about sending them in to the Secretary of State's office. These maps do not go out, these are just for yours and my offices operations. But we did talk about GIS about cleaning up the lines and they're in the process of doing that.

Commissioner Tinsley: And all these lines that come through the City, Madam Chair, Commissioner Murray, all these lines that come through the city are going to at some point going to follow a precinct line.

Paulette DeHart: A precinct line, a district line

Commissioner Tinsley: All right.

Chair Varone: What's the pleasure of the commission?

Commissioner Tinsley: Madam Chair, I make a motion that we accept and approve the fabulous work done by Paulette and her shop and R.J. and his shop and accept these new commission boundaries and authorize the chair to sign.

Commissioner Murray: Second.

Chair Varone: Discussion. I'm going to be voting no to this and I know I'm going to be the minority, but the reason I'm going to vote no to this is because this I think was a first draft and it seems fair that district one represent basically the western half of the county, district two represent basically the center part of the county and district three represent basically the western part of the county and as I see the maps, what I see is a circle for district two, a circle of Helena and the North Valley that bleeds both over into the eastern and the western part of the county and then there's a, and there's no coverage at all in the center part of the county. But it hop skips over into the Augusta area and what I had requested and asked for was that maybe staff provide another alternative and for us to take a look at a second alternative and see what we felt would be better to serve our respective districts and the other two commissioners declined to have that happen. As a result of that, population difference which I think is very important between district two and district three is only 29 population difference between district one and district two is 587.

Commissioner Murray: Excuse me, that's not correct.

Chair Varone: 587

Commissioner Murray: 382

Chair Varone: The difference between district one and district two according to the calculations that were given is 587, between district one and district two. There are fewer in district one. The difference between district one and district three is 558 fewer and what I was asking for was staff making that more equal and that's why I'm going to be voting no because, we don't need to do this I think until the end of the year is really when our drop dead date is

Paulette DeHart: Six months before the next election so it has to be done before January.

Chair Varone: So we really did have some time to come up with a second alternative and I don't know what the real rush is, but I just think we need to carefully review this and provide some more opportunity for maybe a second choice.

Commissioner Tinsley: Madam Chair, Commissioner Murray, Paulette, looking at the records for the 1990 commission districts that you provided me, it appears that in 1990, district one had 141 less than district two and at that time, district three which is now Commissioner Murray's district had 562 less and this was

accepted by the District Court Judge?

Paulette DeHart: Yes. Part of the process is to send it to the District Court Judge to review that legal requirements have been met in establishing a district.

Commissioner Tinsley: Madam Chair, Commissioner Murray. Paulette, isn't it true also that in a perfect world it would be nice to divide this up exactly equally, give everybody the exact amount of land mass, exact amount of voters in each precinct or district, excuse me and that would be fine but given the constraints that we live under regarding precinct lines and having to follow precinct lines at some point somebody's always going to have a little more and somebody's always going to have a little less. Isn't that true?

Paulette DeHart: That's correct.

Commissioner Tinsley: Madam Chair, Commissioner Murray, one more question. With regards to districts, the only thing that I can ever find, I've only been here 9  $\frac{1}{2}$ , 10 months maybe, the reasons why districts exist is to divide up the area equally so some person who wants to run for county commission will come from a certain part of the county so they're not all lumped together, is that correct?

Paulette DeHart: That's correct.

Commissioner Tinsley: Thank you.

Paulette DeHart: That's my understanding. Because the whole voting population can vote on each precinct.

Commissioner Tinsley: Right. Madam Chair, Commissioner Murray, I just want to say thank you again Paulette for all the work your office did. You guys did a tremendous amount of work trying to meet these deadlines in regards to the precinct maps and with these commission districts and I appreciate the fact that you got them done so quick so we can get them in in-case there is anybody out there that's interested in running, they'll know right now whether or not they can, so, for the next election cycle, so Thank you very much.

Paulette DeHart: Thank you and R.J. Zimmer in GIS really need some acknowledgment because without him we couldn't have done it, I can't imagine what

Commissioner Tinsley: and he did it in the middle of all fire maps as well during the Lincoln fires.

Chair Varone: Yeah, and maybe that's part of the reason why we, it would behoove us to take a second look because in a perfect world things are equal and it's not perfect, but this precincts were added, districts were added and as a result of that, becoming more equal in population and aerial land mass should be easier rather than more difficult and should be more equal and that's why I asked for a second go around and another choice, I just think we're moving too hastily.

Commissioner Murray: Madam Chair, Commissioner Tinsley. First of all, Paulette is not staff, she is Chief Election Officer for Lewis and Clark County, elected the same as we are. She in her opinion as the official election person for Lewis and Clark County comes before us today and says the districts are as compact and equal in population as possible. The deviation in landmass I have fourteen or fifteen square miles more than district one, district two has forty-four square miles more. In order to, one of your concerns that you've expressed in this meeting commissioner is that district two leaks out into Augusta and in order to pick up the landmass for district two if you study your map, district two picks up part of the Bob Marshall Wilderness and also Scapegoat Wilderness. The function of that is landmass only, it's not that anyone votes there unless perhaps it's an occasional grizzly and I assume they go to Teton County. I have part of the Bob Marshall Wilderness also with the Lincoln. The fact that our Chief Elected Officer is on record before us saying these districts are as compact and equal in population and landmass as possible, I'm going to accept her word and as Commissioner Tinsley did, I want compliment both Paulette and R.J. Zimmer from our GIS office for the work that they have produced. I'm not going to second guess the work that they've produced, I'm going to accept her statement that this meets to the fullest the section of 74.2102 in the statutes, and quite frankly I

believe I would say that this is much ado about nothing questioning Paulette's work.

Chair Varone: If I could say something about that Commissioner, I'm not questioning Paulette's work and when I referred to staff, I referred to the staff that works for both the City and the County and in this instance it was at the direction of Paulette. It was not to slight her or her position and I'm hoping that she didn't take it that way. But, I believe as an elected official considering what's gone on with the fires and the swift time frame that the commission has asked for this to be completed, not this commissioner, the other two commissioners, I think it would be wise over a ten year period we have ten years, yes we can go back, we can redo this if there's a blossom of growth in a certain area, we can revisit it, I don't anticipate that happening, so we have ten years to live with this and I think we should wisely rather than quickly and wisely in my estimation as an elected official is to go back, take another look, see if there's another alternative that we could consider to make it more fair.

Commissioner Tinsley: Question.

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

Commissioner Murray: 'I'

Commissioner Tinsley: 'I'

Chair Varone: All those opposed, No. Motion carries

**Public Comments on Matters Within the Commission's Jurisdiction.**

**Adjourn.**