

PUBLIC MEETING
March 9, 2004

Chairman Mike Murray called the meeting to order at 9:00 a.m.

Commissioners Tinsley and Varone were present. Others attending all or a portion of the meeting included Ron Alles, Frank Rives, Lindsay Morgan, Art Pembroke, Michael McHugh, Dale Reagor, Broadwater County Commissioner Elaine Mann, Ed Casne, Ken Morrison, Marcie Duthie, Joan Bowsher, Christal Ness, Ron Adams, Larry Winslow, Robert Fusie, Rick Hays, Jim Cottrill, Sheldon Bartel, Skip Hatveltdt, Mike Dowling, Cathy Burwell, Dave Schatz, Neil Horne, Kevin Horne, Bill McGowan, Keith Hatch, Roy Pace, John Novotny, Marcie Duthie, Jerry Shepherd, Elaine Mann, Jason Mohr, Larry Hoffman, Bonnie Jo Geier, Rodger Nordahl, Carrie Hahn, Nancy Everson, Loren Davis, Wayne Effertz, Tim Gill, Mitzi Grover, Everett Verley, Art Pembroke, Corey Hill, Tom Rispens, Carol Hanel, Dick Anderson, Ken Bray, Dean Retz, Tim Burton, John Haftel. Dave Gallick, Mary Brewer, Ron Adams, William Holmes, Ed Casne, Rosemary Moe, Ken Morrison, Katy Fields, Bill Fields, Kathy Moore, Terri McLaughlin, Russell Levens, and Paul Montgomery, Jason Mohr, and Carole Byrnes.

Pledge of Allegiance. Everyone recited the pledge.

Fair Commission Presentation. Dale Reagor presented the Fair Commission's recommendation on the mill levy request. Mr. Reagor acknowledged members of the Fair Commission for the task of putting the presentation material together. There have been serious problems with the deterioration of the facilities through lack of money available for support. Several years ago the grandstands were torn down due to deterioration. Major improvements are needed for the multi-purpose building. The west barn structure is unusable. A recent inspection by the State Electrical Inspector pointed out numerous problems with the electrical facility and the infrastructure at the fairgrounds. There are problems with drainage, the sewer system, and the water system. The proposal for the voters is a major improvement for construction of a new grandstand facility intended to accommodate 2500 people. Together with the temporary grandstand the fairgrounds can accommodate up to 4,000 people for events. In addition, attached to the grandstand facility will be a 40,000 square foot exhibition building. The projected cost is approximately \$5.7 million dollars. The intent of the fair commission is to organize a committee to support the construction at the fairgrounds and carry it through to completion. The committee believes the programs and the activities at the fairgrounds will attract supporters in outlying areas of Lewis and Clark County. The fair commission encouraged the Commissioners to allow the ballot issue to go forward at the June election.

Tom Rispens, Montana Boat Center, supports this proposal and encouraged the Commissioners to move forward.

Kathy Ernst, General Manager, KTVH, supports this proposal and encouraged the Commissioners to move forward.

Corey Hill, President, Helena Building Industries Association, supports this project. The Home Show has outgrown the Civic Center and promoters would like to see a larger facility.

Hearing no other comments, the public hearing is closed.

Commissioner Varone moved to approve the mill levy resolution and put the fairgrounds mill levy on the June ballot and authorize the chair to sign. Commissioner Tinsley seconded the motion and it carried unanimously.

The Commission recessed five minutes.

Proposed Major Subdivision, Preliminary Plat to be known as the Amended Plat of Lot A2 Vulk Minor Subdivision. (Applicant, Chris Ries) The applicant proposes to create four single-family residential lots. The proposed subdivision is generally located ¼ mile north of Lincoln Road East, immediately west of Tea Road and immediately west of Ferry Drive. Lindsay Morgan reported the applicant has requested an extension of the review period to April 30 and the hearing date postponed to either April 6 or April 13.

At the applicant's request, Commissioner Tinsley moved to extend the statutory deadline until April 30 and hold the public hearing on April 6. Commissioner Varone seconded the motion and it carried unanimously.

Recommendation of Award of Request for Proposals for Digital Ortho-imagery and Planimetric Data. Art Pembroke reported the request for proposals is to update aerial imagery for the Helena and the Lewis and Clark County area. The update will provide additional coverage towards Colorado Gulch, the Lake Helena area, and some of the North Hills. The county continues to partner with the USGS who is providing 50% of the funding for this project for the additional aerial topography. The review committee recommends the county begin contract negotiations with Surdex as the successful vendor in the total amount of \$49,000. Commissioner Varone moved to approve to Surdex and authorize the chair to sign. Commissioner Tinsley seconded the motion and it carried unanimously.

Reconsideration of Contract and Encroachment Agreement. (cont. from 2/27/04) (Petitioner, Ron Adams) The petitioner has requested the Commissioners reconsider its decision to deny the contract and encroachment agreement to install and maintain two three-inch septic lines for a community waste water system located on the north side of Little Wolf Creek Road and designed to service the approved subdivision located on the south side of Little Wolf Creek Road. The septic lines cross Little Wolf Creek Road and have already been installed at the time of inspection by the County Public Works Department. Ron Adams was present with his attorney.

Ed Casne, 733 3rd Street, representing Ron Adams. Mr. Adams has not done anything out of the ordinary regarding illegal construction. Mr. Casne accepted responsibility for giving Mr. Adams approval to install the septic system unaware that the county had put

in a condition that he need an encroachment permit to come across the road and asked the commission to reverse the decision to deny the encroachment permit.

William Holmes, 29 Cloverview Court, Attorney for Mr. Adams. He does not believe there is any action on the part of Mr. Adams that constitutes bad faith or a pattern of disregard for the rules. Without the encroachment agreement, his project will be closed down. He was told by his engineer that he could go proceed. He paid the fees prior to the time the work was done.

Commissioner Varone tried to establish a pattern regarding past warnings since 2002 that Mr. Adams completed projects without going through the proper channels.

Ron Adams, PO Box 127, Wolf Creek. Mr. Adams explained the reasons behind the infractions. He stated he never received a letter from the Commissioners outlining the conditions of approval for the subdivision.

Hearing no other comments, the public hearing is closed.

Joan Bowsher, Division Administrator, Environmental Health, stated she is aware of the general situation.

Crystal Ness, Permit Coordinator, visited with Mr. Adams regarding the encroachment agreement and stated DEQ approved the system; however, the county had not yet issued a permit for the installation of the septic system. Mr. Adams believed because he received approval from the Board of County Commissioners his project was approved and he could proceed. Staff did not receive a completed encroachment agreement or the weed management plan until after installation was already completed.

William Holmes stated the minor subdivision was approved in April of last year and Mr. Adams did not receive a copy of the terms and conditions of that approval. This mistake is based on the advice of his engineer, not bad faith by Mr. Adams.

Commissioner Tinsley moved to table a decision to Thursday, March 11 at 9:00 am. Commissioner Varone seconded the motion and asked staff to go back and make sure everything had been done correctly. The motion carried unanimously.

Frank Rives stated the conditions were included in the staff report however, the approval letter was not sent out

[Proposed Minor Subdivision, Summary Review to be known as Griffin-Davis, Lot 32 South 252 Feet Minor.](#) (Applicant, John Huftel) (Frank Rives) (postponed from 2/17/04)
The applicant proposes to create four spaces for lease or rent on a 1.002-acre parcel. The subject property is generally located north of and adjacent to Hope Road, in the Griffin-Davis Subdivision.

John Huftel was present with his attorney Dave Gallick and indicated his willingness to

proceed.

Commissioner Tinsley stated for the record he is a close friend of Mr. Gallick and is also acquainted with Mr. Huftel through his wife at the State Auditor's Office. He feels he can move forward and make a judgment based on the facts of this case.

Frank Rives presented the staff report. The garage was converted into an apartment and was hooked into one of the onsite wastewater treatment systems without a permit or sanitation review and the drain fields the size for only one bedroom. Calls from neighbors expressed concerns regarding the inadequacy of the existing septic systems to handle four dwellings and the potential contamination of these wells if these onsite wastewater treatment systems were to fail. Mr. Huftel was notified by Environmental Health that his property was in violation of the County's onsite wastewater treatment regulations and was asked to resolve the issues. There are no agricultural uses located near the subject property. The soil-mapping unit identified on the subject property has severe limitations for the placement of onsite wastewater treatment systems because of poor filtering capacities. Because of the number of residences on the lot the placement of the buildings and the size of the lot slightly more than one acre it cannot meet the separation requirements for DEQ. The Water Quality District addressed issues of water availability, water quality, and elevated nitrate readings for possible causes for the decreased water quality. A search of the Montana Bureau of Mines and Geology groundwater information site did not reveal a well log for Lot 32 South 252; however the applicant's application states the well is 105 feet in depth. Elevated nitrate concentrations in the groundwater have been identified in the area of the subject property and there is an increased potential for groundwater contamination because there are four buildings using two onsite wastewater treatment systems, which are not adequate in size and have not been approved for four dwellings. A weed management plan is required if the subdivision is approved. The Scratch Gravel Hills Fault is located approximately ½ mile west of the property and another fault is located approximately 1.5 miles north. Staff recommends denial of the proposal for reasons outlined in the staff report. The denial is warranted because this subdivision violates county and state statutes for the inadequate parcel size of the lot would prevent it from getting DEQ approval; the drainfields are inadequately sized for the number of bedrooms served; the existing drainfield is partially under one of the dwellings which would affect its performance and violate DEQ requirements.

Dave Gallick, 120 East Lyndale, was present representing the applicant. Mr. Gallick discussed the ownership of the applicant's property and the history of the septic system. Currently, the septic systems have been replaced from the original ones of the 1960's. Mr. Huftel purchased the property from his parents.

Commissioner Murray excused himself from the remainder of the meeting due to an emergency dental appointment. He will review the tapes and the testimony received this morning and will be able to vote other than if the commission votes this morning.

Dave Gallick continued and read a provision from county subdivision regulations for

granting variances. The applicant is in the process of requesting from DEQ a copy of the trailer lot permit. There is no indication regarding nitrate concerns. There is no septic system under one of the trailers as shown on the plat. He has received affidavits from Janie Smith regarding removal and replacement of the septic tank to meet current standards. Mr. Huftel has been up front, honest, straight forward with the county and the inspectors.

John Huftel stated there were no neighbors when this property was purchased.

Commissioner Varone requested that the public hearing remain open to get some guidance from the Deputy County Attorney on county and state subdivision requirements.

Hearing no other comments, the public hearing will remain open.

John Huftel requested an extension of review period to the end of the month.

Commissioner Varone moved to extend the review period through March 31 and render a decision March 25 as requested by the applicant. Commissioner Tinsley seconded the motion and it carried 2-0.

Proposed Minor Subdivision, Preliminary Plat to be known as the Fields Minor Subdivision. (Applicant, William & Katy Fields) (postponed from 2/24/04) The applicant proposes to create four single-family residential lots. The proposed subdivision is generally located immediately south of Tea Road and immediately west of Ferry Drive. The applicants are present. Ken Morrison is present representing the applicants.

Lindsay Morgan presented the staff report. This site is currently developed with a trailer and two mini barns on the property. The proposed subdivision does not lie within an existing zoning district and there are no zoning regulations to govern land use within the development site. The development lies within the proposed North East Helena Valley Planning jurisdiction. Covenants currently affect the use of the subject property and only restrict further subdivision of land to a minimum of five acres. Five written public comments have been received in opposition to the proposal. There are no water rights or irrigation facilities located on site. A Water Quality Protection District report indicates water availability may be slow due to moderate recovery or episodic recharge of wells and overall water level decline on a secular basis with protracted withdraw. Tea Road also does not meet the required road standards for a gravel surface and the applicants have not requested a variance. This will limit all road approaches for each lot to Ferry Drive and will require a no-access restriction be placed along Tea Drive across the northern boundary of the subject parcel. The site lies in the North Helena Valley Controlled Groundwater Study Area. Staff recommends approval of the proposed subdivision subject to 14 conditions as outlined in the staff report.

Katy Fields, 2575 Tea Road, stated the property is unzoned. DEQ stated no pump test is necessary and the well is in good condition with good water flow results.

Mitzi Grover, 1073 Woodbridge, stated the water flow has steadily declined in the last 10 years.

Hearing no other comments, the public hearing is closed.

Katy Fields stated her well is 450 feet deep and most of the other wells are around 200 feet deep.

The Commission noted the review period ends today. The applicant requested an extension of the review deadline to Friday.

Commissioner Varone moved to approve applicant's request to extend the deadline to Friday, March 12 and render a decision March 11. Commissioner Tinsley seconded the motion and it carried 2-0.

The commission recessed and reconvened at 1:30 p.m.

Resolutions of Intention to Create Rural Improvement District for the North Hills Area.

Commissioner Varone moved to approve the resolution and authorize the chair to sign. Commissioner Tinsley seconded the motion and it carried 2-0.

Resolutions of Intention to Create Rural Improvement District for the Fawn Meadows Estate Major Subdivision.

Commissioner Varone moved to approve the resolution including the recommended changes by staff and authorize the chair to sign. Commissioner Tinsley seconded the motion and it carried 2-0.

Lewis and Clark Humane Society – Spay/Neuter Committee. (cont. from 3/4/04 JWS)

Ron Alles reported the purpose of this letter is to request from the Montana Spay/Neuter Task Force come to Helena and conduct a five-day, free of charge, spay/neuter clinic in October

Gina Weist, 1503 Ohio, corrected the letter to remove reference to Lewis and Clark Humane Society and replace it with Spay/Neuter Committee.

Commissioner Varone moved to approve the letter as amended and authorize the chair to sign. Commissioner Tinsley seconded the motion and it carried 2-0. Broadwater County Commissioner Elaine Mann previously stated her support of this letter.

Other business.

Joint Letter to Congressional Delegation in Support of Senate Bill 1072. Highway Program reauthorization bill.

Joint Resolution to MDT. Endorsing Implementation of I-15 EIS and fully support request of funding at the next Montana Transportation Commission meeting.

Commissioner Varone moved to approve both documents and authorize the chair to sign. Commissioner Tinsley seconded the motion and it carried 2-0.

Public Comments. None.

There was no other business and the meeting adjourned at 11:45 a.m.