

**SUBDIVISION MEETING**

June 10, 2004

Others attending all or part of the meeting: Larry Marshall, Ron Solberg and Jeff Zimmerman.

**Pledge of Allegiance.** (Everyone recited the pledge)

Chair Murray: Good Morning and welcome to our regularly scheduled Lewis & Clark County Public Meeting. My name is Mike Murray, to my right is Commissioner Tinsley, Commissioner Varone is off recovering from surgery. To Commissioner Tinsley's right is Ron Alles our Chief Administrative Officer, to Ron's right is Sharon Haugen our Director of Planning to Sharon's right is Cheryl Green our manager of the Tax Collection Department for the treasurer, to Cheryl's right is Carole Byrnes our executive secretary.

**Request to Amend Special Zoning District No. 25 to Permit Metal Roofs and to Grandfather Existing Setback Violations.** (Petitioner, Bert Carlson) (Planner, Frank Rives) (cont. from 5/18/04)

The affected area is Special Zoning District No. 25 and is located in the SE1/4 of Section 12, N1/2 of Section 13, and SE1/4 of Section 14, T10N, R4W; generally located west of Green Meadow Drive and east of the Burlington Northern Railroad.

Commissioner Tinsley: Mr. Chairman, I don't know if Kelly or Frank needs to present the findings of the commission and zoning here for the record or if we just go right into it, so

Chair Murray: Mr. Rives if I can get you to the podium please.

Frank Rives: Yes Sir

Chair Murray: If you'd report the findings of the planning and zoning commission.

Frank Rives: Chairman Murray, Commissioner Tinsley, members of the public. The planning and zoning commission met on May 18<sup>th</sup>, 2004 and held a public hearing, public testimony was taken, members of the planning and zoning board discussed the issues and a motion was made, actually several motions were made. The first motion, the zoning commission voted 5-0 to approve grandfathering setback violations in the special zoning district No. 25. They also voted 5-0 in favor of allowing metal roofs to be permitted and that by a certain design standard be adopted as part of that. If they replace the roof it has to be 26 gauge I believe or 28. It was the recommendation of staff that the clause in the special zoning district 25 rules or regulations to prohibit noxious activities or noises be removed from the regulations however the commission, zoning commission voted 4-1 to retain set language and it was also the recommendation of staff that a penalty clause be inserted in the special zoning district 25 regulations which would call for a \$25.00 fine for at the time of a violation and that the \$25.00 fine be per day, per violation. And it was the recommendation of the zoning commission in a 5-0 vote that the penalty clause be placed into the special zoning district 25 regulations.

Chair Murray: Is that in the record?

Frank Rives: A motion was made for their recommendations to the County Commissioners in the June 10<sup>th</sup> subdivision meeting.

Chair Murray: Thank you. Questions of Mr. Rives?

Commissioner Tinsley: None.

Chair Murray: Thank you Frank. Commissioner Tinsley.

Commissioner Tinsley: Mr. Chairman should we take these one by one

Chair Murray: It's however you want to clear up the motion

Commissioner Tinsley: Mr. Chairman, I make a motion that we approve the first recommendation of the zoning commission raising the request of the petitioners to change special district zoning district number 25 and allow metal roofs and authorize the chair to sign.

Chair Murray: Second. Commissioner, I noticed in your motion and I agree with your motion that rather than setting a gauge we're saying metal roofs are approved. I don't see county staff crawling up on your roof to see if it's 29 gauge or 26 gauge, we're not set up to do that nor do I think it's reasonable that your zoning district ask us to do that. Discussion Commissioners?

Commissioner Tinsley: None

Chair Murray: All in favor of the motion to allow metal roofs signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries.

Ron Alles: Mr. Chairman, past practice the commission has incorporated into the commissions record, the zoning commissions public hearing and the minutes from that. I'm not sure if you want to consider that or not

Commissioner Tinsley: Should we go to the end

Chair Murray: At some point we need to do it, I thought that we had done that when we accepted the recommendations a month ago, two weeks ago. We can do it again.

Ron Alles: I wasn't at that meeting

Chair Murray: At some point commissioner we need to incorporate the recommendations of the planning and zoning commission into the county commissioners records.

Commissioner Tinsley: Mr. Chairman I make a motion that we incorporate the results and the minutes of the previous planning and zoning commission meeting and include them in our public record.

Chair Murray: Second. All in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries.

Commissioner Tinsley: Mr. Chairman I make a motion to deny the recommendation of the zoning and planning commission with regards to setbacks and authorize the chair to sign.

Chair Murray: Second. Discussion.

Commissioner Tinsley: Mr. Chairman. Given on the advice of our Deputy County Attorney, I concur with his advice in that grandfathering in would not be the right step to go about letting these setbacks to remain. It would tie our hands in future zoning commission meetings, therefore I recommend to the residents who are in violation that they go through the normal variance process with this commission and they have on the advice of council I believe a year from this date and just go through the normal variance process and than the setbacks will be taken care of at that time. Other than that we expose ourselves to tie our hands for future zoning commission meetings by granting a grandfather.

Chair Murray: That was the reason I seconded it. Unfortunately you folks are aware that we have 60 violations

coming as soon as we finish with your zoning district and then in the next zoning district by establishing a precedence of automatically grandfathering we're setting ourselves up for not enforcing the zoning districts as you expect us to do. Those of you, some of you have already moved sheds and buildings that were capable of being moved those of you that don't have that opportunity can and should expect an expedited and timely hearing on your variance requests from this commission. I as one commissioner will see that it happens and believe that Commissioner Tinsley and Commissioner Varone also will see that your request is expedited so we will handle these very quickly. Did you have comments?

Commissioner Tinsley: I just want to say that I absolutely agree with Commissioner Murray's assessment as to our intention with regards to the variance process.

Chair Murray: All in favor of the motion, signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries. Commissioner Tinsley you skipped over the noxious

Commissioner Tinsley: Yeah, that's next.

Chair Murray: Oh, okay. Thank you.

Commissioner Tinsley: Mr. Chairman I make a motion to accept the recommendation of the zoning commission meeting with regards to section 'b' subsection '7' of the RRA zone and special zoning district number 25 and retain the language as it is for obnoxious offensive \_\_\_\_\_ in the district.

Chair Murray: Second. All in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries.

Commissioner Tinsley: Mr. Chairman I make a motion that we approve the recommendation of the zoning commission and accept the new enforcement clause in the zoning district which provides for the fine of \$25.00 a day for each violation and each violation constitutes a separate violation and authorize the chair to sign.

Chair Murray: Second. All in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries. This completes the item, Thank you folks for your willingness to work with us. I'm sure that \_\_\_\_\_ hopefully we opened the door where we can work together to resolve the items that are still left.

Bert Carlson: Can I ask you a question?

Chair Murray: Yes Sir. Mr. Carlson if I can get you to use the microphone.

Bert Carlson: My name is Bert Carlson, I live in Racetrack Meadows #49 which is part of special zoning district number 25. I have a question with regard to the setback penalties or fines if you will. Are they going to be, my understanding from the zoning commission meeting a month ago that the fines would not be assessed to those folks who that are in violation of the setback at this time.

Commissioner Tinsley: That's not my intent to do.

Chair Murray: To waive them or?

Commissioner Tinsley: Yeah, I didn't, the intent of my motion was for any new violations and I don't know if that was specifically spelled out maybe we need to

Kelly Blake: Commissioners, my name is Kelly Blake. It was our agreement that we would not enforce a penalty on this round but anything that's new after this date that rises as a violation would come under the penalty clause.

Chair Murray: That was the intent of my motion Mr. Carlson.

Bert Carlson: Okay.

Chair Murray: We want to get these violations cleaned up as quickly as possible and that was the purpose of my speech a fine does not apply to you.

Bert Carlson: And those in violation will have one year from today to apply for variances.

Chair Murray: Up to a year, hopefully as you leave today you will walk upstairs and pick up the paperwork so you can expedite it.

Bert Carlson: Now if they did not apply within one year of the variance will the fine be instituted at that point?

Chair Murray: I need Mr. Blake to help me through this. We believe as law abiding citizens that you certainly want to take care of this problem as you leave rather than charging us with enforcing the zoning district. I didn't think that was a possibility Mr. Carlson.

Kelly Blake: I think it was our intent that if no action took place within the year time frame than we would send out notice that several actions would be pending.

Bert Carlson: Okay.

Chair Murray: Mr. Blake where do we go to get a request for a variances

Kelly Blake: Request for variances can be obtained from Crystal Ness. She's the permit coordinator, she's in room 404 of the City County Building.

Chair Murray: Commissioner Tinsley with your agreement and or permission, I would ask staff that for the known setback violations that we know of that we mail the variance request forms to them so that all of your neighbors if their not here today to request the form \_\_\_\_\_. We really do want to expedite this and clean this up.

Bert Carlson: Thank you very much.

Commissioner Tinsley: Thank you very much.

Chair Murray: If any of you have the misfortune and you shouldn't in this brief period that we've had together today of having a parking permit if you'll bring it to our office please we'll take care of it, we don't fix tickets but we're not going to have you ticketed for participating in County Government.

**Bid Award.** (Eric Griffin)

The Commissioners will consider awarding the bid for Federal Aid Project No. PLD 2003(2), Marysville Road Gravel Improvements, Lewis and Clark County.

Eric Griffin: Mr. Chairman, Commissioner Tinsley. Before you I believe you have a memo from myself on the Marysville Road Improvements Federal Aid Project No. PLD 2003/2. Bids were open on Thursday May 27<sup>th</sup>, 2004 for the Marysville Gravel Project. Three bids were received; I believe you have the bid tabulations in your packet. We received three bids on the project. Stahly Engineering was the engineer on this project and also Mr. Ted Wood who is Western Federal Lands Highway Administrator have reviewed the bids and concur with the bids. The low bid was from J&S Construction Inc for the amount of \$299,416.23. Earlier this week I had a request to make sure that the compaction and proper watering of this project would be followed so I went back and reviewed that, this week myself I also concurred with our engineer on this project and watering equipment will be in accordance within the specification which is part of this contract, it will be in accordance with MDT standards and also to the compaction and the density and the moisture will be in accordance with \_\_\_\_\_ and MDT so that is all very very clearly spelled out in our documents that we're about to reward today. I would recommend to the Board of County Commissioners that you award the Marysville Gravel Road Improvement to J&S Construction Inc for a total of \$299,416.23 and authorize the chairman to sign the bid award, the contract and other necessary documents related to the project.

Chair Murray: Questions of staff?

Commissioner Tinsley: None

Chair Murray: Commissioner Tinsley, Mr. Griffin, for the public, I'd like you to explain why we're graveling and also when you finish explaining that I want to acknowledge the effort you've made due to the time constraints in this project that you want to get the road in some type of acceptable condition, if you'll explain a little bit how you came to find money to gravel this and ultimately to rebuild Marysville Road.

Eric Griffin: Mr. Chairman, Commissioner about probably two years ago we had a request in to the federal government and received approximately one million dollars for the design, for the environmental work and design of the Marysville Gravel Road Project. In that interim we also received approximately \$500,000 in additional money to do improvements to this. This is a safety improvement and also to basically hold the road together until we secure the additional funding for this project. Also on top of the \$500,000 the federal highway administration they have some research money that they donated, well I guess not donated but contributed to the project of \$125,000 and we're going to do three test sections on this road with an acrylic polymer stabilization. We'll do one down low where it's drier, a little bit higher where it gets a little more moisture a little more higher in elevation and another one up higher closer to the town of Marysville so the federal highway administration has been a tremendous partner in this project to. As I said it's a research project and it could work very well or it could not work very well but that's why we want to see if this project will work for us. So, does that cover it Commissioner?

Chair Murray: That covers it and we're all assuming it's going to work very well. I want to acknowledge and thank you for your efforts to get some gravel on this road and get the road brought up to some safe condition by going with this research project while we're still in the design and chasing additional money to eventually pay for this. I appreciate your efforts and focus on this.

Eric Griffin: Thank you.

Commissioner Tinsley: Mr. Chairman.

Chair Murray: Commissioner Tinsley?

Commissioner Tinsley: Mr. Griffin, you may have indicated this and I may have missed it, do you have any kind of timetable for the project, what are we looking at?

Eric Griffin: Mr. Chairman, Commissioner. Right now we're hoping after the award today that we have a preconstruction meeting next week and I anticipate that we will be done by the end of the summer. Everyone is real anxious to get going on this project so I would anticipate end of August probably. Everyone's ready to

roll on this.

Commissioner Tinsley: Excellent. Thank you.

Chair Murray: Is there a motion?

Commissioner Tinsley: Mr. Chairman I make a motion that we approve and award the bid for the Marysville Gravel Road Improvement Federal Aid Project number PLD 2003(2) to J&S Construction Inc for the amount of \$299,416.23 and authorize the chair to sign.

Chair Murray: Second. Discussion. All in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries. Thank you.

**Resolutions Ordering Refunds of Taxes/Fees/Assessments Paid.** (Cheryl Green)

- a. Jack Stearns. Lincoln Landfill fees, \$435.00
- b. Alan R. Marks. \$34.82
- c. Dalmar and Mary Davis. \$180.00

Cheryl Green: Should we just do them all at once or one at a time?

Chair Murray: We want to do them one at a time please.

Cheryl Green: This came from the landfill board by signed by Louie Bouma. Jack Stearns was being charged for Lincoln landfill. Mr. Stearns doesn't own an improvement on the land he owns, there is a mobile home on there owned by other people. They went back to the five years, refund \$90 for 4 years and \$75 for 1 year for a total of \$435.00 and ask the chair to sign.

Chair Murray: Questions of Ms. Green?

Commissioner Tinsley: None.

Ron Alles: Mr. Chairman, Commissioner, Cheryl. Normally the landfill fee is placed on the land or is that just with those homes that are double wides that are attached permanently, is that correct?

Cheryl Green: Lincoln solid waste fee is put on each property that has dwellings or mobile homes and lets say you don't own the land so some residences and dwellings that the charges are on.

Ron Alles: So if this, the gentleman owned the land and the trailer though would it be placed on the land or the trailer?

Cheryl Green: If the trailer was affixed to the land we would put it on to the real estate. If the mobile home was built separately it would go on to the mobile home.

Chair Murray: Mr. Alles in case this particular claim it's an erroneous assessment because the owner of the trailer house, I serve on the Lincoln Landfill Board, the owner house was billed as well as the landowner. Two permits were issued, one permit was used and that is the trailer. If the owner of the trailer elects to move their mobile home to another location, Lincoln landfill permit would move with them and it than would be raw land and that's why Lincoln landfill board agreed to refund. Commissioner Tinsley?

Commissioner Tinsley: Mr. Chairman I make a motion we approve the resolution order a refund of fees paid to Mr. Jack Stearns of Lincoln Montana for erroneous assessment in the amount of \$435.00 and authorize the chair to sign.

Chair Murray: Second. All in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries.

Cheryl Green: Commissioners, Alan Marks is asking for a refund on his penalty and interest on his 2003 tax bill. He bought the property in 2003. Bills go out the end of October; the bill went out to the previous owner from Department of Revenue's statement the computer was changed on December 29<sup>th</sup> of 2003. So Alan did not receive the 2003 tax bill, the previous owner did. When he of course came in to pay the taxes they were delinquent. There is no statute that allows Commissioners or truly anyone to refund on a penalty of interest. So me and Carole decided I guess this was kind of the way to do it. We're asking the Commissioners to deny the refund.

Chair Murray: Ms. Green it was my understanding as you stated that the Commission can refund taxes paid, we do not have the ability to refund penalty and interest on it.

Cheryl Green: Correct

Chair Murray: You've checked that, the statutes on that?

Cheryl Green: Right

Chair Murray: Questions Commissioner Tinsley?

Commissioner Tinsley: Yes, Mr. Chair. Looking at what we have in front of us though, we still have, do we have any type of erroneous assessment because it says Mr. Marks \_\_\_\_\_ refund is due to him, perhaps I missed something but. We're not going to pay penalty and interest; I understand that, what's the \$34.82 then?

Chair Murray: Ms. Green?

Sharon Haugen: Mr. Chairman. The question is because the resolution before the commission recommends approval of a refund, I think that's where Mr. Tinsley's question lies, and staff is recommending denial of that resolution from my understanding or denial of the refund request, of the refund of penalty and interest.

Ron Alles: If I might add Mr. Chairman, the actual taxes and assessments were not erroneously assessed. I don't think that the resolution clearly states that, it's my understanding they were properly assessed it's just that the tax bill was sent to the previous owner and so in fact the accurate taxes were paid late.

Chair Murray: Commissioner Tinsley, I believe our action today is either to deny the request or to table this allowing you to do further research of the statutes.

Commissioner Tinsley: I'm okay to make a motion now if you are. Mr. Chairman I make a motion that we accept the recommendation of Cheryl Green's office and deny Alan Marks his request for penalties and interest on the taxes were due and individually paid and authorize the chair to sign.

Chair Murray: Second. All in favor of the motion signify by saying Aye.

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries

Cheryl Green: Dalmar came into my office and was checking to see if some people were actually paying on the maintenance fee that had houses out there and then we discovered that all he had was a shed on his property,

he has other property that has a house on it which he is paying for his maintenance. We discovered that it was in 2002 and 2003 he was charged for having a residence on that property it's vacant land, vacant land was to be charged \$30 a year and a piece of property with a residence is \$120 a year so I took the difference of what he had paid and what he should have paid and the refund comes to \$180 for tax year 2002 and 2003 and I ask the Board to sign.

Chair Murray: Questions of Ms. Green. Mr. Chairman I make a motion we approve the resolution ordering a refund of taxes, fees, assessments paid to Dalmar and Mary Davis in the amount of \$180 and authorize the chair to sign.

Chair Murray: Second. All in favor of the motion signify by saying Aye.

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries. Thank you Ms. Green.

**Proposed Subdivision, Summary Review to be Known as Hunt Minor.** (Applicants, David & Bernice Hunt) (Planner, Michael McHugh) (cont. from 3/16/04) The Commissioners will consider creating two (2) additional duplex spaces for rent or lease. The subject property is located in the W1/2 of Section 25, T11N, R4W; generally located north of and adjacent to John G. Mine Road.

Michael McHugh: This is a proposed subdivision created for additional space for rent, lease or other conveyance. The applicants are constructing a second dwelling on the property and also installed a wastewater treatment system without permit. There were several issues brought up in the original public hearing, the original staff recommendation was to deny the proposed subdivision. This was done in November 2003, originally got a 90-day extension to address some issues with ground water and nitrate concentrations. On March 16<sup>th</sup> of this year, 2004, the board granted an additional extension of 120 days requiring the applicant to meet the existing DEQ and City-County Health Department standards for the original dwelling unit on the property. I believe you have in your packet a letter dated June 7 of this year from Mr. Frank Preskar of the City-County Health Department and also a letter from Sheryl Consort hydrologist from Department of Environmental Quality dated May 24<sup>th</sup> of this year and they've indicated that there is extremely high, extremely variable nitrate concentrations. In November of 2003 the nitrate concentrations ranged from 7.3 to 9.3 miligrams per liter, what presents a problem for installation of on site wastewater treatment systems is the April samples were at 2.2 to 1.9 miligram per liter. The Department of Environmental Quality will not issue a permit until they have a one year monitoring to look at variability on this. Due to these factors staff still recommends denial of the proposed subdivision and the applicant wishes to submit a subsequent application they can do that after that one year time frame, in addition staff recommends that the second dwelling the duplex possibly \_\_\_\_ on the property not be able to occupied until all of this testing is done.

Chair Murray: Questions of Mr. McHugh?

Commissioner Tinsley: Mr. McHugh, given the letter from Mr. Preskar and this previous approval of extension, would it be prudent or is it under this boards authority if the Hunt's ask for a request for an extension for a year, and we grant them an extension of a year so they can have time to possibly fulfill the requirements of DEQ and our Health Department.

Michael McHugh: That's up to the Board's discretion. Basically this structure was installed and the wastewater treatment system was installed in violations of the codes. They've been given two extensions from the original subdivision review process, a 90-day and 120-day extension. It's the applicant's responsibility to comply with these things. Staff's recommendation at the original application be denied if after the one year monitoring period they can come back and reapply for the subdivision.

Chair Murray: Thank you Mr. McHugh

Commissioner Tinsley: Thank you, sorry.

Chair Murray: Commissioner Tinsley?

Commissioner Tinsley: Mr. Chair, if it's possible could we hear from the Hunts?

Chair Murray: Absolutely. Mr. or Mrs. Hunt.

David Hunt: Thank you Mr. Chairman I appreciate this opportunity.

Chair Murray: Mr. Hunt for the record I need you to state your name.

David Hunt: My name is David Hunt, I live up on the \_\_\_\_\_. We have endeavored to meet the requirements of both DEQ and the sanitary, Mr. Preskar's letter there. I have requested however the copy of or a referral to some regulation that these people are referring to and I have received nothing, I don't know what they're talking about. They say yeah there's high concentrates on that for that 9.3 and 7.3. I had submitted a letter of some time ago concerning that very project as to how the concentrates were that high and after referring to both H&L Drilling and to Lindsay Drilling that anything in the well could cause high concentrates. At the time that these water samples were drawn there were breaks in the line and anything could have possibly gotten in there. Since that time it has been monitored on a very timely basis, once a month, and if you'll notice in there all the concentrates have gone down. I noticed Mr. McHugh only quoted the highest of those but not those that have come on down. I turned in again to Ms. Ness this morning the latest water review and they are at 1.1 and 1.6 on the two wells. They have been holding consistent like that since the 3., the drop down to 3. that Mr. McHugh quoted. We have been in contact with Mr. Ryan Casne of Casne and associates and they are willing to work with us on this, if it is deemed necessary however, in relying and talking with Mr. Ryan Casne he says that with the water levels the way they are he sees no reason for an engineer on this project. This part about building without a permit, I stated in the very first meeting on this situation that the electricity, the well and the septic was already on the premises and all I did was connect to them. I did not see then and I do not see now why I need a permit however since the commission has decided that we do we are willing to abide by that. The septic system that he's talking about and the new structure we did increase the size of the drain field so that might be where my violation is and I stand corrected on that it will be, can be changed fairly easily by putting a new septic tank approved for the size of the building to the west or to the back of the house with a drain field running north and west which would be entirely away from the well or anything like that. On the existing house, the septic tank, we were under the impression that the drain field ran to the east and we discovered it was running to the north of the building and therefore the well that we supply that house was well within the hundred feet limitation of the breach line. With Mr., after talking to Frank Preskar about that I suggested that a long line or the hundred foot line that is in violation of that \_\_\_ be reduced, shortened down and that amount taken off of that line be put on the shortest line to maintain the same number of footage that's still within the recommended hundred feet, that has been done. Mr. Preskar did come out and look at it and approved it and that is now taken care of. The electrical on the new building has been ready for inspection since we were stopped construction on it and we've been advised by Mr. Badger that the permit is about to expire, it will expire on the 27<sup>th</sup> of August. The building is ready for inspection. Because of the work stoppage we have done nothing with that. I would like permission to go ahead and finish two side walls that go in there so that the wiring can be on those two areas can be installed in walls and the inspection done so that we don't lose that. I do feel it is unreasonable that we are being penalized this way and I feel that we should have the extension in lieu of this to carry out the necessary work, the monitoring of the wells which we are willing to do without being penalized at the price of another permit. I guess that's about all I have to say at this time.

Chair Murray: Mr. Hunt are you agreeable as Commissioner Tinsley suggested that perhaps an extension should you request verbally and extension be granted for an additional year from today's date for you to bring your septic into compliance and get your permit. Are you agreeable to that?

David Hunt: Yes

Chair Murray: Thank you.

Commissioner Tinsley: Mr. Chairman I make a motion that we grant the request of the applicant to extend his subdivision application for one year from today's date which would make it June 10<sup>th</sup>, 2005 and authorize the chair to sign.

Chair Murray: Second. Mr. Tinsley would you accept \_\_\_\_ agreement

Commissioner Tinsley: Absolutely.

Chair Murray: We continue the no occupancy restriction for the property but that we allow Mr. Hunt to finish the two side walls and get his electrical inspection out of the way but that the no occupancy requirement continue until your septic is permitted.

Commissioner Tinsley: I'm fine with that Mr. Chairman, I have a point that I'd like to make in discussion as well. Did you second already?

Chair Murray: Second, I did now with the amendment.

Commissioner Tinsley: Mr. Hunt, just for the record, Mr. McHugh did point out the lower nitrates in his comments you may have missed them but I did hear them and he did indicate that. Mr. McHugh is a very professional planner and we at the county and at the planning department and our commission take water quality issues extremely seriously. We're not doing this trying to make your life miserable, in fact I think we've bent over backwards for you and your wife to keep this thing alive so that you can meet all the conditions that we require. In doing so today, I think we're just \_\_\_\_ another giant step forward. We could very well deny this and you could start the whole process over again. That doesn't make sense to me because it's already in the process and it looks like we're trying to get something done but please understand we do take water quality issues very seriously here at the County and we don't \_\_\_\_ from our responsibility one iota.

Chair Murray: Commissioner we have before us a motion to extend to June 10<sup>th</sup>, 2005 the applicants subdivision request and in septic permitting and continuing a no occupancy restriction on your property but allowing you to finish the two side walls and get your electrical inspection out of the way, all in favor of that motion signify by saying Aye.

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries.

**Amendment to Condition of Approval #16 for Northwest Minor Subdivision** (Applicant, M & W Investments/Larry Marshall) (Planner, Michael McHugh) (cont. from 6/01/04)

The Commissioners will consider amending Condition 16 requiring the developer to "...establish locations and easements for additional wells, waterlines and a 100,000 gallon water reservoir on the subject property as identified in the agreement filed with the County Clerk & Recorder. The easement for the subject wells water lines and reservoir shall be indicated on the final plat. The Townview Estates Users Association and the Applicant shall mutually agree on the location of wells, easements and the reservoir."

Commissioner Tinsley: Mr. Chair, Mr. McHugh do you have anything to add? Would you like to speak to the request of Northwest Minor?

Michael McHugh: \_\_\_\_ the action you need to take today is \_\_\_\_\_ public hearing, concluded the public hearing so you just need to take an action to make the amended language or keep the language \_\_\_\_\_

Commissioner Tinsley: Mr. Chairman I make a motion that we deny the request from Mr. Marshall to amend condition of approval #16 for Northwest Minor Subdivision.

Chair Murray: Second. Discussion. Commissioner Tinsley?

Commissioner Tinsley: Mr. Chair I believe that through the testimony that we had last week, I believe it was last week or the week before, it's clear that Townview holds the easement and Mr. Marshall had knowledge of this from the beginning. I believe due diligence is ongoing and basically the representative from the Townview residents, he feels that they are close to reaching an agreement. I see no new evidence provided that would \_\_\_ us to amend condition of approval #16 at this time.

Chair Murray: You have before you a motion for denial, All in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries

**Subdivision Improvements Agreement for the Helena School Tracts, Lot 29 Amended Minor Subdivision.**  
(Applicant, John & Diana Brodston) (Planner, Frank Rives)

The Commissioners will consider the agreement to defer construction of improvements (widen existing approach to 24 feet with gravel). Security is in the amount of \$1,156.25.

Frank Rives: Chairman Murray, Commissioner Tinsley. We have, of course today as part of the conditions of approval for the proposed school tracts lot 29 minor subdivision, one of the conditions was they needed to bring a portion of what's called East Custer Avenue to County standards from their approach to where the road is, meets county standards. It's just a short distance of the road. This is a minor subdivision summary review for rent, lease or other conveyance. Because there is no division of property, there is no final plat to be recorded and the planning department handles these summary reviews for rent, lease or conveyance administratively and as far as the final plat there is no commission action (tape ended)

Frank Rives: (tape begins) we were going to make sure that DEQ approves this before any covenants were recorded that the fee to the fire department is paid and one of the conditions of approval is to see that the improvements are done before they \_\_\_ and that's what we're doing of course today is preparing a subdivision improvements agreement for those improvements so the applicant can final plat. That's staffs recommendation that we do so.

Chair Murray: Thank you. The actual \_\_\_ is to approve the park?

Frank Rives: Yes, to approve the subdivision improvements agreement which I have the original with me, attached to I believe you have a copy of the letter and a copy of the bond which is a cashiers check.

Chair Murray: Thank you. Questions of Mr. Rives?

Commissioner Tinsley: No.

Chair Murray: I'd like Commissioner, Mrs. Brodston thank you for hanging in with us is John on active duty now?

Diana Brodston: Not yet, but it's

Chair Murray: Soon. Commissioner Tinsley?

Commissioner Tinsley: Mr. Chairman I make a motion that we accept the recommendation of staff and approve the subdivision improvements agreement for the Helena School Tracts Lot 29 amended minor subdivision and authorize the chair to sign.

Chair Murray: Second. Discussion. All in favor of the motion signify by saying Aye.

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries.

**Request for One-Year Extension of Preliminary Plat Approval for the Broadwater Estates Major Subdivision.** (Applicant, Frank Gruber) (Planner, Lindsay Morgan).

The Commissioners will consider a one-year extension to July 11, 2005.

Sharon Haugen: Mr. Murray, I'll take this for Ms. Morgan, she had an appointment and had to leave so I will do the extension. Mr. Alles just went to get me some stuff. But I can do this extension.

Chair Murray: Thank you Ms. Haugen.

Sharon Haugen: Commissioner Murray, Commissioner Tinsley, what you have before you for your consideration is a request on behalf of Frank Gruber for Broadwater Estates Major Subdivision to extend the preliminary plat approval for that subdivision for a period of one year. The applicant has demonstrated due diligence, I believe in your packet you have a letter from the applicants representative that outlines all the steps that they have taken. We have, we believe they have performed due diligence and we recommend approval of the extension. If approved, this subdivision, the approval date will be extended to July 11, 2005. I'll be happy to answer your questions the commission may have at this time.

Chair Murray: Questions of staff?

Commissioner Tinsley: None

Chair Murray: Ms. Haugen, in the end of Mr. Wagner's letter on page 4, second to the last paragraph, he's requesting that we notify him of who the planner that is took over Mr. Grebenc's duties or who the planner assigned to this project is. Have you made assignment?

Sharon Haugen: Mr. Chairman, Commissioners. Ms. Morgan is the planner, she would have been doing this today but she did have another appointment at 10:00.

Chair Murray: Can we

Sharon Haugen: Mr. Wagner and Mr. Gruber do know that now. You can see the letter was dated June 2<sup>nd</sup>, so we hadn't made that assignment.

Chair Murray: Thank you. You're so far ahead of me I can't catch up. Commissioner Tinsley.

Commissioner Tinsley: Mr. Chairman I make a motion we approve the request for a one year extension on preliminary plat approval for Broadwater Estates Major Subdivision for one year, extend it to July 11<sup>th</sup>, 2005 and authorize the chair to sign.

Chair Murray: Second. All in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries

**State of Montana Board of Investments Intercap Loan Application.**

The Commissioners will consider the Intercap loan application in the amount of \$13,553 for Munger Road RID Road Improvement.

Audra Zacherl: Good Morning. As you stated I have an intercap loan application for the recently created Munger Road RID. The requested loan amount is \$13,553 and it will be used to chip seal to the paved portion of Munger Road. The term of the loan will be for ten years and each benefiting property owner in the district shall be assessed \$36.76 and will need to repay the loan. Can I answer any questions for you?

Chair Murray: Questions of staff?

Commissioner Tinsley: None

Chair Murray: Is there a motion?

Commissioner Tinsley: Mr. Chairman I make a motion we approve the request of the State of Montana Board of Investments Intercap Loan Application on behalf of the Munger Road RID district in the amount of \$13,553 for ten years and authorize the chair to sign. Did you understand that?

Chair Murray: Second. Discussion. All in favor of the motion signify by saying Aye.

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries

Commissioner Tinsley: Thanks Audra.

Audra Zacherl: You're welcome.

**Resolutions Canceling Uncalled Warrants.**

- a. Drawn on US Bank of Helena with a date of issuance between July 15, 1999 and June 30, 2003 from the Jail Commissary Fund.
- b. Drawn on First Bank of Helena with a date of issuance October 3, 2000 and June 30, 2003 from the County Clerk's Office.
- c. Drawn on US Bank of Helena with a date of issuance between July 1, 2002 and June 30, 2003 from the County Clerk's Office.

Audra Zacherl: As you stated statutes requires any warrant that's outstanding for more than one year must be taken off the books and even though the warrants taken are off the books the payees may still demand payment from the County at a later date. I don't have any additional information \_\_\_\_\_ other than it's \$963.30 in total.

Chair Murray: Ms. Zacherl it's interesting in that the first page and a half of the resolution you don't have names attached to the promissory accounts, is that, do they all go to us or

Audra Zacherl: I believe Nancy would be able to answer that question.

Nancy Everson: Chairman Murray there was a system change the \_\_\_ system changed in this time period and that's why there is not names on there, they were issued on the old system and the names are included on the checks that are over there.

Chair Murray: The names are available?

Nancy Everson: Yes.

Chair Murray: Thank you. Questions of staff?

Commissioner Tinsley: None.

Chair Murray: Is there a motion?

Commissioner Tinsley: Mr. Chairman I make a motion we approve the resolution canceling the uncalled warrants drawn on US Bank of Helena with a date of issuance between July 15, 1999 and June 30, 2003 and authorize the chair to sign.

Chair Murray: Second. All in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries.

Audra Zacherl: The second resolution is for the treasurer's checks and the total amount of those checks is \$774.39.

Chair Murray: Questions of staff?

Commissioner Tinsley: None. Mr. Chairman I make a motion we approve the resolution canceling the uncalled warrants from the First Bank of Helena with a date of issuance of October 3, 2000 through June 30, 2003 and authorize the chair to sign.

Chair Murray: Second. Discussion. It's interesting that in going through the list that Gallatin County Sheriff has a check for \$100.44, Les Schwab tires has a un-cashed check in the amount of \$951.68

Audra Zacherl: Mr. Murray, are we on the treasurer's checks or the accounts payable checks. The list you are reading from is for the accounts payable list.

Chair Murray: I'm on the wrong list, Thank you for straightening me out. On the list that we have before us, Globe Pequot Press has a check for \$271.94, Barbara Baum has an un-cashed check in the amount of \$226.71, Christine Dugdale has a check in the amount of \$148.70, hopefully residents of Lewis & Clark County that have misplaced or lost a check or think they may have will come by your office and check out money we're saving on than by canceling the warrants today as you stated in your opening remarks you can issue another check once we cancel these checks so people need to be aware of it and the exorbitant amounts I'll reiterate when we do the next one. Commissioner Tinsley.

Commissioner Tinsley: Nothing to say.

Chair Murray: Do you want to make a motion?

Commissioner Tinsley: I already did. You seconded it.

Chair Murray: All in favor of the passage of the motion signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries

Audra Zacherl: The last resolution is for the Account Payable checks, the total amount is \$6293.24 and because I am personally responsible for these accounts payable checks, the larger amounts I do check into. I try to call the vendors, a lot of them do get reissued. There are several on here that for example the Gallatin County Sheriff's Office, there was some mix-up, they have been paid that amount, this was the original check that just seemed to have got lost so it's just easier to void it out. Community Rehab Center stated that we never owed them that amount of money, I faxed them their invoice they told me that it was not their invoice so I'm not quite sure what happened on that one. Lincoln Community Hall, Les Schwab Tires and the AFLAC check, those three vendors stated that they actually deposited those checks and that the amount was no

longer owed. My suspicion is that these checks were issued about the time that the new finance program and it's possible that they just didn't get cancelled out of the system.

Commissioner Tinsley: Mr. Chairman for your information, my previous and Carole can check this my previous motion was for this particular resolution, October 3<sup>rd</sup> through June 30<sup>th</sup> is that right?

Carole Byrnes: Yes

Commissioner Tinsley: So we've already done this one. So this one

Chair Murray: If we can, I want to indulge and thank Ms. Zacherl with her due diligence in notifying vendors so that the County is paying their bills and get them to cash their checks, they have been notified.

Commissioner Tinsley: Mr. Chairman I make a motion we approve the resolution canceling uncalled warrants drawn on US Bank of Helena with a date of issuance between July 1<sup>st</sup>, 2002 and June 30<sup>th</sup> 2003 and authorize the chair to sign.

Chair Murray: Second, and we've discussed the vendors that are losing money on this. All in favor of the motion signify by saying Aye.

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries.

Commissioner Tinsley: Thank you Audra, I appreciate it.

#### **Adoption of Preliminary Budget for Lewis and Clark County.**

The Commissioners will consider adopting the preliminary budget.

Nancy Everson: Chairman Murray, Commissioner Tinsley you have before you the proposed fiscal year 2005 county budget. This includes all of the funds currently \_\_\_ County. This is a preliminary budget, budget work sessions with the commission will continue the next scheduled budget work session is June 16<sup>th</sup> at 9:00. There will be public hearings held on this budget, one tomorrow in Augusta, in Lincoln on June 28<sup>th</sup> and Helena on June 24<sup>th</sup> at the regularly scheduled public meeting and also at 5:30 in the evening. On this preliminary budget includes all personnel and programs that are currently operating in Lewis & Clark County, the total invested expenditures currently are \$53,357,008.. This is an increase of \$10,218,562 over the 2004 adopted budget. The reason for this increase is due to three factors. Number one it's the public safety integrated radio project, the total project is approximately six million one hundred dollars financed with approximately \$4,500,000 in a federal grant and \$650,000 \_\_\_ the remainder through savings for this project through a capital program. There also is a refinance of the Solid Waste Revenue Bond for \$3,125,000 it's offset by corresponding revenue with it's refinancing to get a lower interest rate, better interest rate. Also the successful mill levy election for the fairgrounds adds \$953,000 to this budget. Excluding those projects and \$450,000 in Montana Capital projects \_\_\_ last year in capital projects the increase in the budget over the 2004 adopted \_\_\_ - was approximately 1.2%. This budget includes a new position to the County Attorney for the Civil Attorney and also includes a new position at the public defenders office; this is a contract with the City of Helena, the City of Helena will be paying for that position. There's new \_\_\_ capital projects included that the County has been saving for through their capital improvement program, replacement of equipment, the finishing of the shell at the Cooney home to add an expanded laundry facility and administration offices and employee break room. We don't have the mill levy amounts at this time, we'll have those later in the summer, usually around the first of August we get the property tax values from the Department of Revenue. We do not anticipate any increase in the mill levies other than approximately 11 mills for the successful mill levy election for the fairgrounds. Solid waste scratch gravel assessment has gone up \$8, from \$81 to \$73 as well as \_\_\_ about \$1.75 per ton. The water quality district is proposing an increase of about 10% in their assessment which will add approximately \$.50 per lot. Any questions for me?

Chair Murray: Questions of staff?

Commissioner Tinsley: I'll save them for the next budget session. Thank you Nancy.

Chair Murray: It's very nice when through the diligent work of staff and the efficient work of staff we're reducing two different solid waste mill levies. The public needs to be aware that County staff through their efforts are able to reduce rather than increase fees. That's a nice compliment. Are copies of the preliminary budget available in your office and the three libraries or are they are on line. If the public wishes to access the information how do they go about it.

Nancy Everson: copies are available in the Commissioners office and the treasurer's office, also the three libraries will have a copy of the preliminary budget.

Chair Murray: Thank you. The preliminary budget it is my understanding by adopting it today, the public needs to be aware that we're still tweaking it and balance it is the correct term I believe because we still need to make a few cuts in the budget to be balanced.

Nancy Everson: That's correct.

Chair Murray: Enough said I believe. Is there a motion?

Commissioner Tinsley: Mr. Chairman I make a motion we adopt the preliminary budget for Lewis & Clark County as presented by staff and authorize the chair to sign.

Chair Murray: Second. All in favor of the motion signify by saying Aye

Commissioner Tinsley: Aye

Chair Murray: Aye. Motion carries

#### **Public Comments.**

Chair Murray: This is the point in the meeting when any member of the public present who wishes to bring before the commission items that we have authority over, now is your opportunity. Commissioner Tinsley?

Commissioner Tinsley: Mr. Chairman, I would just like to congratulate you on your winning day on Tuesday, I think your voters appreciate the work you're doing for Lewis & Clark County and as well as all of us in this office, congratulations.

Chair Murray: Thank you. That was a kind statement. We are adjourned.

#### **Adjourn.**

- Due to a remodeling project in the Commission Chambers, beginning Thursday, April 22, 2004 all regular County Commission meetings will be held in Room 326 of the City-County Building until further notice. Thank you for your patience during this time.
- All public meetings are now videotaped by HCTV and can be seen on Ch. 11 later in the day.