

PUBLIC MEETING
February 1, 2005

Chairman Ed Tinsley called the meeting to order at 9:00 a.m. Commissioners Varone and Murray are present. Others attending all or portion of the meeting included Jerry Grebenc, K. Paul Stahl, Lindsay Morgan, Eric Griffin, Sherrel Rhys, Cheryl Green, and Carole Byrnes.

Pledge of Allegiance. Everyone recited the pledge.

Request for Reconsideration of Refund of Penalty & Interest. (tabled from 1/13/05)
The Commissioners will consider whether to reconsider its November 18, 2004 decision of denial to Marilyn Hudson for a refund of interest in the amount of \$1,813.02 and penalty in the amount of \$531.10 for a total amount of \$2,344.12. Commissioner Murray moved to table this matter to Thursday, February 2 at 9:00 a.m. to discuss with Deputy County Attorney Stahl whether the Commissioners have legal authority to refund penalty and interest when the error is the State of Montana's. Commissioner Murray believes it is an erroneous assessment that the address was continually changed on the refund request. Commissioner Varone seconded the motion.

Deputy County Attorney, K. Paul Stahl, cited Section 15-16-603, MCA, *the Board of County Commissioners may order a refund on tax, penalty, and interest, or cost (1) paid more than once or (2) erroneously or illegally collected.* This was not paid more than once. The only option for the commission to decide is if this was paid erroneously, in error, or if it was illegally collected. The official record does not indicate Ms. Hudson made any request to change her address until long after she was delinquent. There is no evidence an error was made by either the Revenue Department or the Treasurer' Office. Mr. Stahl does not think there is any statutory authority to grant a refund and there is never a refund for taxes that are delinquent.

Commissioner Varone asked Commissioner Murray to share information regarding his meeting with Ms. Hudson Paulette DeHart. According to Ms. Hudson's letter she was unaware the taxes were not paid until she received the delinquency notice on July 24 and she immediately paid.

Commissioner Murray stated Ms. Hudson indicated she changed her address. When she and Mrs. DeHart went downstairs to the revenue department the address she had changed reverted back to Woodbridge Drive as opposed to the post office box or an address in Billings.

Mr. Stahl stated as of September 2004 her address was still 1043 Woodbridge Drive by her own records from her attorney.

Commissioner Murray moved to table a decision to Thursday, February 3 to reflect on the testimony of Deputy County Attorney Stahl.

The motion to table to Thursday, February 3 at 9:00 a.m. carried unanimously.

Final Plat Approval and Subdivision Improvement Agreement for the Anderson Minor Subdivision. (Applicant, David & Patricia Nickol) Lindsay Morgan reported the subdivision improvements agreement is for paving road approach, completion of internal subdivision road, mailbox unit, and engineer's certification that the road meets county standards. All of the conditions have been met. Staff recommends approval of final plat approval and the subdivision improvement agreement. Commissioner Varone moved to sign the final plat and the agreement. Commissioner Murray seconded the motion and it carried unanimously.

Memorandum of Understanding with the Montana Department of Transportation. Eric Griffin reported the MOU will allow MDT to use the Applegate Pit for annual equipment operator training May 2-5. Staff recommends approval of the MOU and authorize the chair to sign. Commissioner Murray moved to approve the agreement and authorize the chair to sign. Commissioner Varone seconded the motion and it carried unanimously.

Memorandum of Understanding with the City of Helena. Landfill Manager, Sherrel Rhys reported the MOU is to store and pulverize recycled glass through February 15, 2006 because the City of Helena has lost its current market to recycled glass. The final product can be used as any kind of aggregate in road product, culvert and pipe bedding. Staff recommends approval of the agreement. Commissioner Varone moved to approve the agreement and authorize the chair to sign. Commissioner Murray seconded the motion and directed staff to pursue the previous agreement for using the glass at the cement plant in Montana City and stated the city lost the contract due to stricter DEQ regulations.

Sherrell Rhys stated the stricter regulations are from EPA. DEQ is putting together legislation that would have the State of Montana meet those regulations to resume recycling glass at Ashgrove Cement Co.

The motion to approve the agreement carried unanimously.

Public Works Contract with American Sheet Metal. Sherrel Rhys reported the contract to install a diesel exhaust system at the county landfill will not exceed \$9,400. Staff recommends approval of the contract. Commissioner Murray moved to approve the contract and authorize the chair to sign. Commissioner Varone seconded the motion and it carried unanimously.

Public comments on matters not mentioned above. None.

There is no other business, the meeting adjourned at 9:30 a.m.