

DRAFT – NOT APPROVED BY BOCC

SUBDIVISION MEETING
December 15, 2005

Chairman Ed Tinsley called the meeting to order at 10:00 a.m. Commissioner Murray and Commissioner Varone are present. Others attending all or portion of the meeting included Ron Alles, Jerry Grebenc, Audra Zacherl, Jacalyn Grenfell, Paul Putz, Marni Bentley, Joan Bowsher, Thomas & Kimberly Harrison, Michael McHugh, Adam Pimley, Jason Mohr, Kyle Thomas, and Maria Penna.

Pledge of Allegiance. Everyone recited the pledge.

Chairman Tinsley: Good morning and welcome to the regularly scheduled Thursday morning meeting. I'm Commissioner Tinsley. To my left is Commissioner Varone. To her left is Maria Penna our Executive Assistant. To my right is Commissioner Murray. To his right is Ron Alles our Chief Administrative Officer. To his right is Jerry Grebenc our Director of Community Development and Planning. First item on the agenda this morning are the consent action items. Mr. Alles.

Consent Action Items.

Ron Alles:

- a. Vendor Claims Report for the week of December 12, 2005. Miss Zacherl is here if you have any questions regarding that. I would point out that the claims report is available in her office for the public to review.
- b. Contract with Vision Net, Inc. To provide equipment and installation for the court arraignment system. The contract is for \$10,159.47. This will benefit both the courts and the sheriff's department in terms of providing arraignment via their facilities at the Law Enforcement Center.
- c. National Park Service Grant Funds. \$500 to Helena/Lewis and Clark County Historic Preservation Commission to promote appreciation of Mullan Road. There will be a conference, etc., out there.
- d. Resolution Declaring County Property Surplus Property. Items from Sheriff's department as well as the Cooney Convalescence Home. It's a dishwasher and some miscellaneous office equipment individually valued less than \$2,500.
- e. DNRC. \$3,043,857.87 Refunding Revenue Bond, Loan SRF-05128. Certificate of Completion for Solid Waste Facility Bonds. This is just a formality in finalizing the refunding of revenue bonds that we did with the Landfill a couple of years ago through the SRF Program. This is just a Certificate of Completion of the solid waste bonds.
- f. Montana Arts Council. Final Narrative Report for Feathered Pipe Foundation and a grant that they received from the County I believe it was last year and this is just the final report.

Chairman Tinsley: Thank you Mr. Alles. Before I ask for a motion, I would ask if anybody has any public comment on the vendor claim report for the week of December 12th? Does anybody care to comment on the vendor claims? Ok. Is there a motion on the Consent Action Items?

Commissioner Murray: Mr. Chair, I move approval of the consent agenda and authorize the sign as appropriate.

Commissioner Varone: Second.

Chairman Tinsley: We have a motion and a second. Any discussion? All in favor of the motion

signify by saying Aye.

Commissioner Murray & Commissioner Varone: Aye.

Chairman Tinsley: Aye. Motion passes 3-0.

Chairman Tinsley: Next item on the agenda is a Resolution of Intention to increase the Dearborn Fire Service Area rates pursuant to 7-33-2401. Marni Bentley is the Staff person. The Commissioners will consider the resolution. Good Miss Bentley.

Resolution Of Intention To Increase The Dearborn Fire Service Area Rates Pursuant to 7-33-2401, MCA.

Marni Bentley: Good Morning. I did receive a request from the Dearborn Fire Service Area to increase their fees from \$45.00 for property with an inhabitable structure to \$75.00. I did attach a copy of that letter to your memo. I've also attached a draft resolution increasing the rates to the \$75.00 requested and once this resolution of intention is approved, the public hearing notification process will begin. I'll notify all landowners and there will be a rate hearing on the change. My tentative schedule is to have the public hearing in late January and the 60 day protest period starts and by March, the end of March, the fee increase will be effective. Staff does recommend approval of the attached Resolution of Intention to increase the Dearborn Fire Service Rates pursuant to Section 7-33-2401, Montana Codes Annotated.

Chairman Tinsley: Are there any questions for Miss Bentley.

Commissioner Murray: Mr. Chair, Commissioner Varone. Miss Bentley, there will be a hearing on this?

Marni Bentley: Yes there will be.

Commissioner Murray: If we approve this today my original intent without knowing that was to ask that this be tabled if a fire department wants to essentially double their rates I want to know how they're going to use the additional money they're going to generate and I think the Commission needs to know that. What the need is and how it's going to be spent assuming this motion passes. Will you notify the Fire Chief and the Board that at least one Commissioner is curious?

Marni Bentley: Sure, I will do that.

Chairman Tinsley: Further comments or questions for Miss Bentley. Is there a motion?

Commissioner Varone: Mr. Chair? This second curious Commissioner makes a motion to approve a Resolution of Intention to increase the Dearborn Fire Service rates from \$45.00 to \$75.00 and authorize Chair to sign.

Commissioner Murray: Second.

Chairman Tinsley: We have a motion and a second and this third curious Commissioner intends to vote for it as well. All in favor of the motion signify by saying Aye.

Commissioner Varone & Commissioner Murray: Aye.

Chairman Tinsley: Aye. Motion passes 3-0. Thank you Miss Bentley.

Chairman Tinsley: The next item on the agenda we're going to have a public hearing on the

Lewis and Clark County Dog Control Ordinance. Recently the Staff person, Joan Bowsher has been working on updating and doing some housekeeping on the ordinance and she is here this morning. I don't know if you need to present anything Miss Bowsher. What we'll do is have the public hearing and then at some later date we'll act on the resolution itself. So would you care to introduce it? Maybe just go over a few of the changes that you're recommending. And I understand there might be some other changes you're doing as well.

Public Hearing. Lewis and Clark County Dog Control Ordinance.

Joan Bowsher: Yes, and I would encourage you to hold another public hearing at a later date also because this was not public noticed other than by this agenda and usually when we've gone to public hearing on the dog control ordinance we've public noticed it.

Chairman Tinsley: Ok. Well, since we noticed it on our agenda this morning we'll have a public hearing this morning and then when we set the future date we will also notice it the way we're supposed to and have another public hearing before we vote.

Joan Bowsher: The Animal Control Officer and myself went through the ordinance a couple of months ago and did make some minor changes to it. We did define dog for a change because there is always some discussion about wolf hybrids and other new animals that come into question so that has been changed somewhat. The restraint definition has also been changed to include a competent physically capable person, which kind of makes sense a 4 year old can't probably handle a pit bull. And the vicious dog portion of the ordinance also has some changes in it and it has to do with changing ownership of a dog that's already been found to be vicious that notification and the complaint stays with the dog. Just because it has a new owner the complaint won't go away. Also the fines have been increased to more be closer with the City fines structure. And that is it. If you have any questions I can try to answer them.

Chairman Tinsley: Questions for Miss Bowsher?

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, Commissioner Murray. Not a question, just on page 3, item number 7 "Redemption and Destruction" the abbreviation just needs to be, that's the only thing.

Joan Bowsher: I saw that yesterday as we going through this again. Thank you.

Commissioner Varone: It says DOC instead of DCO is all, for the public.

Chairman Tinsley: Ok since we put this on our agenda, I'm going to open a public hearing and see if anybody in the audience has any comments they would like to make on the Lewis and Clark County Dog Control Ordinance proposed revisions. Anyone care to comment? For the first time. For the second time. For the third and final time. I will leave the public hearing open and we will continue it at a future date. Is there a motion to consider this at a future date?

Commissioner Murray: Mr. Chair I move we table this until 1/12/06.

Commissioner Varone: Second.

Chairman Tinsley: We have a motion and a second to act on this on January 12th, table it until January 12th.

Commissioner Varone: And keep the public hearing open is that correct?

Chairman Tinsley: And keep the public hearing open. Any discussion? All in favor of the motion signify by saying Aye.

Commissioner Varone & Commissioner Murray: Aye.

Chairman Tinsley: Aye. Motion passes 3-0. And Joan you'll work with Carole to get this in the properly noticed places.

Chairman Tinsley: Next item on the agenda is the proposed Major Subdivision, Preliminary Plat to be known as Lincoln RV Park Major Subdivision. The Applicants are Thomas and Kimberly Harrison. The Planner is Michael McHugh. This is continued from December 6th. Today is decision day. Mr. McHugh.

Proposed Major Subdivision, Preliminary Plat to be Known as Lincoln RV Park Major Subdivision.

Michael McHugh: Commissioners this was heard, the Planning Board's recommendation was for 20 conditions. At the public hearing Staff did make a recommendation to add a additional condition to require that there be a public access easement extended to the eastern border of the property because of the high potential of development on that adjacent property.

Chairman Tinsley: Ok. Commissioners, and I do believe that the Applicants offered an alternative for that. We'll deal with that in amendments so when we get to that of the Conditions. Is there a motion?

Commissioner Varone: Mr. Chair, I make a motion to approved the proposed major subdivision, preliminary plat to be known as Lincoln RV Park Major Subdivision and authorize Chair to sign.

Chairman Tinsley: We have a motion. Is there a second?

Commissioner Murray: Second subject to 20 conditions as proposed by the Planning Board.

Commissioner Varone: Thank you Commissioner.

Chairman Tinsley: We have a motion and a second. Discussion?

Commissioner Murray: Mr. Chair?

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: During the hearing I expressed some concerns over the requirement to bury the 120,000-gallon water tank for use for fire suppression. It's my understanding there's another major down the road that's been approved. If some type of agreement can be worked out between the 2 majors, is there a way to bring this back that that condition can be amended so there's one functioning well rather than having 2 majors within a mile of each other, one burying a 120,000-gallons of water.

Michael McHugh: Commissioners, the existing subdivision regulations as adopted in February of this year state based on the number of lots and the density that the Applicant **shall** install fire protection improvements on site. This is not a discretionary thing. The Applicant would be required to apply for a variance from the Subdivision Regulations as adopted and go back to the Planning Board. If this is deemed a significant enough change he would have to make reapplication but the Subdivision Regulations, they **shall** install certain improvements based on the density and the number of lots.

Commissioner Murray: Mr. Chair, Commissioner Varone. The answer is yes, it can be done but a variance with the amendment would have to go before the Planning Board and eventually come back to us with the Applicant's wish to change that particular condition.

Michael McHugh: And a new application would have to be required to be made.

Commissioner Murray: Why a new application? Isn't that at the discretion of the Planning Board?

Michael McHugh: I'll defer comment to Mr. Alles and Mr. Grebenc.

Jerry Grebenc: Mr. Chairman, Commissioners. How we typically handle this is if the Applicant decides to amend their proposal, in this case if the Applicant wishes to dovetail with another project rather than putting the water in the ground what I would ask is if the Applicant submit that in writing to Staff, we can sit down and look at it and make a determination whether or not it's substantial. If we deem it's substantial we would recommend that the Applicant go through the process with the Planning Board again. The Applicant would have the option of going to the Commissioners and make a request and say we don't think this is substantial depending on what the decision is, almost similar to like going through the formal modification process.

Commissioner Murray: Mr. Chair, Commissioner Varone, Mr. Grebenc. There is a procedure then?

Jerry Grebenc: Correct.

Commissioner Murray: Where common sense can prevail.

Jerry Grebenc: And what needs to be determined does it have to go all the way through an application process notification, back to the Planning Board and what not, that's what would need to be determined based on what the Applicant submits.

Commissioner Murray: Thank you.

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, Commissioner Murray. I plan of course on voting for this, but I also would like to publicly thank the Applicants for working with the School District and trying to help the kids out. I think this is a perfect example of not only being a good neighbor but also developing a good partnership in the area.

Chairman Tinsley: Are there any further amendments to the conditions of the application?

Commissioner Murray: Mr. Chair, Mr. McHugh. In the Planning Boards conditions can you point me to the requirement for an easement going east?

Michael McHugh: They did not make that recommendation. That is Staff's recommendation based on the comments that were made by one of the owners of the adjacent property. It's been the policy of Staff to try and ensure connectivity between developments in the area and this would just further that goal and it's one of the goals of the Transportation Plan. It's not to have these isolated subdivisions. And it's at the discretion of the Board of County Commissioners whether they wish to add that.

Chairman Tinsley: And if it's added it will be Condition No. 21?

Michael McHugh: It will be an addition condition, yes sir.

Commissioner Murray: Mr. Chair, Commissioner Varone. It was my understanding that the engineer agreed but preferred it on Lot No. 9. On one of the larger lots, if this is a requirement that it there choice. And having said that I would move that a 21st condition requiring an easement going east to the adjoining Jacovac's property be set aside on a lot of the Applicant's choice.

Commissioner Varone: Second.

Chairman Tinsley: We have a motion and a second. Any discussion? Any discussion?

Commissioner Murray: Mr. Chair, the Applicant has signaled on how large an easement and I believe requirement is 60'.

Michael McHugh: It would be a standard public access easement, which would require a 60' right-of-way with a 24' improved surface width with necessary drainage improvements.

Chairman Tinsley: Any further discussion? We have a motion and a second to, restate your motion if you would please Commissioner Murray.

Commissioner Murray: Mr. Chair, the motion is that an access easement be set aside going east joining "the Jacovac property" which I believe is the property, their ranch to the east, or farm, and the easement would come from a lot of the Applicants choice.

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, Commissioner Murray. The notes that I have indicate that the Applicant and their representative indicate that a bike path easement from Lot 9 is what they were approving and not a road easement. As I recall they were indicating that because of the location and the irrigation that was behind them and in close proximity of both Lincoln and Montana Road, that this east/west hook up wouldn't be necessary and they didn't feel it was appropriate for that particular location. So what you're recommending is a 60' easement I probably will not be supporting that but I would support a bike path easement to allow folks to get back and forth.

Commissioner Murray: Mr. Chair.

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Mr. Chair, Commissioner Varone. I thought the bike path easement was going to go on the south side of the property connecting. Well how about I restate the motion, giving the problem we're having in moving traffic onto Montana from one subdivision to another throughout the valley, I move that a 60' easement be set aside on a lot of the Applicant's choice going east to the Jacovac property.

Chairman: I would consider the previous motion withdrawn and I'm assuming your withdrawing your second. Is that correct Commissioner?

Commissioner Murray: Yes.

Chairman Tinsley: And Commissioner Murray has replaced or restated his motion?

Commissioner Murray: I've restated it, since I've lost it.

Chairman Tinsley: Right. Is there a second? I will second the motion. Any discussion? All in favor of the motion signify by saying Aye.

Commissioner Murray: Aye.

Chairman Tinsley: Aye. Opposed same sign.

Commissioner Varone: No.

Chairman Tinsley: Motion passes 2-1. Any further amendments to the Conditions? That would be Condition No. 21. Any further amendments or discussion on the Conditions? Hearing none all in favor of the proposed Major Subdivision, Lincoln RV Park amended with 21 Conditions of Approval as amended, signify by saying Aye.

Commissioner Varone & Commissioner Murray: Aye.

Chairman Tinsley: Aye. Opposed same sign. Motion passes 3-0.

Commissioner Murray: Mr. Chair, I also want to thank the Applicants for a good application and their willingness to work with the Helena Public school system on water.

Chairman Tinsley: And once again the third Commissioner would like to say ditto. Thank you very much. All right, you work with Staff and they'll walk you through what you need to do from now on. Thank you very much.

Chairman Tinsley: Next item on the agenda is the proposed Major Subdivision, Preliminary Plat to be known as Pimley Major Subdivision. The Applicant is Adam Pimley. The Planner is Michael McHugh. This is continued from December 6th of '05. Today is decision day. Mr. McHugh.

Proposed Major Subdivision, Preliminary Plat to be Known as Pimley Major Subdivision.

Michael McHugh: Commissioners, the public meeting has already been held and the recommendation of the Planning Board was approval with 23 conditions. There was discussion by the Applicant about setting a sunset date for the reimbursement for any road improvements in the area. There was also discussion about limiting livestock and large animals on the property and then it was the recommendation by the Board of County Commissioners to indemnify the County because of the proximity to the County Landfill.

Chairman Tinsley: Ok, Commissioners.

Commissioner Murray: Mr. Chairman, I would move approval of the proposed subdivision subject to 24 conditions as proposed by the Planning Board.

Chairman Tinsley: Thank you for finding the number, I could not find the number quick enough.

Commissioner Varone: Second.

Chairman Tinsley: We have a motion and a second. Any discussion? Any discussion?

Commissioner Murray: Mr. Chair, I would move to amend Condition No. 14 by adding a 3-year limitation on the requirement from filing a final plat.

Chairman Tinsley: Is there a second?

Commissioner Varone: Second.

Chairman Tinsley: We have a motion and a second. Any discussion?

Commissioner Murray: The two dates that were offered were 3 years and 5 years. I chose the lesser of those for no specific reason.

Chairman Tinsley: Any further discussion? All in favor of the motion signify by saying Aye.

Commissioner Varone & Commissioner Murray: Aye.

Chairman Tinsley: Aye. Motion passes 3-0. No. 14 is amended. Any further discussion?

Commissioner Murray: The uh.

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: I yield to Commissioner Varone. We need to talk about large animals on Condition 20-S.

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, Commissioner Murray. I'm not exactly sure what to do about this because I have a, and have had for quite some time a concern about having large animals on lots and I agree with Michael's asking for a prohibition of raising, confinement or keeping of livestock. And I'm not exactly quite sure how to handle this. I have one of two maybe proposals. I might be agreeable to keep, with exception of one 4-H animal per lot per year, if we add the word "large" livestock and it would read "a prohibition of raising, confinement or keeping of "large" livestock, with the exception of one", and if "large" isn't added in there then I would ask, I would make a motion to just remove the underscore that the Planning Board added. If that makes sense.

Chairman Tinsley: If you wouldn't mind, would you please restate that again Commissioner Varone. I apologize.

Commissioner Varone: I would be agreeable to leave the underscore as recommended by the Planning Board if we also add the word "large" in front of livestock. It would read "a prohibition of raising, confinement or keeping of "large" livestock, with the exception of one 4-H animal per lot per year." In other words I wouldn't want them to have more than one cow. You know what I'm saying?

Chairman Tinsley: Yeah, Commissioner Varone before you, I ask you if that's a motion, I would like to offer a possible alternative, and I spoke about this during the hearing that we had on December 5th or 6th whatever that date was, and the argument was, again I thought we had come to some type of an agreement more than a year ago regarding 4-H animals and we talked about the fact that 4-H animals normally don't consist of herds of large animals. It's usually one or two animals for a period of time during the year and we talked about instead of possibly, and maybe it's along those same lines of what you're talking about, instead of doing a prohibition on raising, confinement or keeping of livestock or large livestock we set a minimum or maximum limit of large livestock that are considered 4-H animals. For instance we'll allow 4-H animals with no more than one or no more than two large animals, large being defined as a cow or horse

or llama, etc., mule, etc. So we set a limit instead of prohibiting them we set a limit. Is that what you were saying anyway?

Commissioner Varone: That's sort of what I'm saying here, I just recall the Applicant saying well if they have 5 kids and they might have 5 cows and I have a real problem with that but I don't want to prohibit them from having 4-H animal. I could be a sheep, it could be a duck, but I don't want to see 5 large 4-H animals on a lot.

Chairman Tinsley: Which is why I think we set a minimum number of large animal but we don't set a number for livestock in general or animals in general because kids could raise more chickens or more ducks, etc.

Michael McHugh: And Commissioners, poultry, rabbits, things like that are not considered livestock.

Chairman Tinsley: Which is why I said animals after livestock.

Michael McHugh: Ok.

Chairman Tinsley: So do you have a motion you would like to make Commissioner Varone?

Commissioner Varone: Well I'm wondering if we could maybe say "a prohibition of raising, confinement or the keeping of **large** animals with the exception of one 4-H project animal per lot per year."

Chairman Tinsley: One **large** – well I guess the point I'm making is we need to add in 4-H and also have to delineate between all of the rest of the 4-H animals and **large** 4-H animals.

Commissioner Varone: Maybe it would be better since Staff knows our intent to allow the Staff to create the language that would accommodate that.

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Mr. Chair, Commissioner Varone. If you're going to allow that and I certainly would agree to that, I would ask that the Applicant's representative be included in drafting the language that Mr. Retz did submit language, and you remember in testimony the Applicant, or we received testimony that, although his sister's raised large animals, the engineer for the project was so sick of large animals that he elected not to have a 4-H large animal. So, I would 2nd the motion, if it is, to allow Staff and the Applicant to craft the wording of the 4-H and animal prohibition.

Commissioner Varone: Agreed.

Chairman Tinsley: And that's agreed. And I believe Staff and the Applicant understand the intent of the Commission and let's vote on it. That sounds good to me. All in favor of the motion signify by saying Aye.

Commissioner Varone & Commissioner Murray: Aye.

Chairman Tinsley: Aye. Motion passes. So Condition No. 20-S is amended. Any further amendments?

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: I believe there was discussion at the last meeting about adding a final condition that adds notification that there's a landfill in close proximity and however that language needs to read.

Michael McHugh: That would be in addition to Condition No. 20-J, subsection 3. Where there's already indemnification for the irrigation ditch and the earthquake fault.

Commissioner Varone: Mr. Chair, I would make a motion to add that language where appropriate in the conditions.

Commissioner Murray: Second.

Chairman Tinsley: We have a motion and a second.

Commissioner Murray: Discussion?

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Commissioner I'm assuming this is the standard language we've been adding around on all subdivisions?

Commissioner Varone: Yes.

Commissioner Murray: Thank you.

Chairman Tinsley: Any further discussion? All in favor of the motion signify by saying Aye.

Commissioner Murray & Commissioner Varone: Aye.

Chairman Tinsley: Aye. Motion passes 3-0. Item 20-J has been amended and now includes No. 3 "notification of landfill proximity. Any further discussion?

Commissioner Murray: Mr. Chair, Commissioner Varone. Condition No. 17, that has been completed, does it need to remain in or do we need some acknowledgement that that condition has been complete?

Chairman Tinsley: Commissioner Murray, I believe that the discussion we had the last time, according to Jerry and/or Mike, I can't remember who said this we just treat this as a condition that has already been checked off the check off list and it doesn't need to be messed with.

Commissioner Murray: Ok.

Chairman Tinsley: Any further amendments or discussion? Hearing none, Commissioners you have before you now the Pimley Major Subdivision with 24 Conditions of Approval as amended. All in favor of the subdivision signify by saying Aye.

Commissioner Murray & Commissioner Varone: Aye.

Chairman Tinsley: Aye. Opposed same sign. Motion passes 3-0. Congratulations Mr. Pimley. Please work with Staff. Mr. Retz and Mr. Altman will walk you through the process and thank you very much.

Chairman Tinsley: Next item on the agenda is public comments on matters not mentioned above. Are there any public comments on anything not discussed this morning? Any public comments on anything not discussed this morning for the second time. Hearing none we stand adjourned.

Public comments on matters not mentioned above. None

Adjourn. Adjourned 10:34 a.m.

*Announcements
Public Meeting Canceled. December 20
Holidays. Monday, December 26 and January 2.*