

PUBLIC MEETING
January 29, 2008

Chairman Ed Tinsley called the meeting to order at 9 a.m. Commissioner Murray was present. Commissioner Hunthausen was absent attending the Rocky Mountain Program in Colorado all week. Others attending all or a portion of the meeting included Ron Alles, Frank Rives, Paul Spengler, Jim Hyatt, Michele Peterson, Michael, McHugh, Rebecca Shaw, Tim Burton, Jack Walsh, John Grant, Dave Anderson, Sande Wilson, and Maria Penna, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Oath of Office – Deputy Disaster & Emergency Services Coordinator. Paul Spengler introduced Jim Hyatt who will manage the Emergency Operations Center in his absence. Commissioner Tinsley administered the oath of office to Mr. Hyatt.

Consent Action Items. Ron Alles reported on the consent agenda and recommended approval.

- a. Bond Resolution for the Montana Advocacy Program. (Bob Murdo)
- b. Final Plat Application for Silver Acres Subdivision. (Applicant, V.L. "Pat" Jones)
(Planner, Michele Peterson)

Hearing no public comments, Commissioner Murray moved approval of the consent agenda and authorized the Chair to sign. Commissioner Tinsley seconded the motion and it carried 2-0.

Public Hearing. Proposed Abandonment of a Segment of Right-of-Way of Gates of the Mountains Road. (Petitioner, Gates of the Mountain Foundation) (Planner, Michael McHugh) The Commissioners will consider a petition from the adjacent landowner to close and abandon a segment of a surveyed right-of-way of the Gates of the Mountains Road. The segment of county road right-of-way is approximately 300 feet long and 60 feet wide. The property is owned by the Gates of the Mountains Foundation.

Michael McHugh presented the staff report. The petition states: (1) the only effected property owners would be the Gates of the Mountain Foundation (2) no public use had been made of the segment other than parking area located on the property in many years; and (3) the foundation is not legally responsible for granting legal access to the public but they will permit in the future access to adjoining state lands and to the property. Commissioner Murray and public works department personnel inspected the property. The Gates of the Mountains road easement was officially established back in 1943 under a court order by the First Judicial District Court which required a perpetual public easement be established. The court also required the county to pay the adjacent property owners, the Hilger Family, \$600 to obtain this easement. The road is paved. A gate has been established. Some development has been established within the right-of-way easement, which are generally the meeting rooms and offices for the foundation. The US Forest Service commented that access to their lands would not be affected by this proposed closure and abandonment. The road is a dead-end road

terminating within the parking lot of the Gates of the Mountain Foundation property. No other property owners would be affected. A turnout area is available for people to access the lake for recreating and turnaround of county road equipment. This area is not affected by the Helena Area Transportation Plan. The Board of County Commissioners has the discretion to require compensation from the benefiting property owner. If the commissioners decide that they wish compensation, an appraiser would need to do a market study on the value of .41 acres. Based on the staff report, staff recommended closure and abandonment of the right-of-way easement subject to 5 conditions of approval as outlined in the staff report.

Commissioner Murray asked why in 1943 did the court order this easement and the county to pay? During the road inspection, it did not appear that the easement leads to water or water access at any point? Mr. McHugh said the road had never been officially established as a county road. There is no direct access and essentially the road parallels the lake and private property. Access to the lake would comply with statutes based on high watermark.

Commissioner Murray asked what assurances will the public have regarding access to the Gates of the Mountains property for recreational purpose. Mr. McHugh said there would be no guarantees because this is private property. The survey provided to the Commissioners was prepared in September 2007 and was based on the original survey.

Attorney, John Grant, was present representing Gates of the Mountains Foundation. The Foundation owns the real estate and the Gates of the Mountains Boat Club leases the property and has the docks and the clubhouse. He thought it was important to recognize that no road was being abandoned--just a small segment that sits where the boat club is located in the parking lot. Access to the Gates of the Mountains would not change and the property remains open to the public and accessible.

The Foundation is pursuing a conservation easement on this property to keep it from further development. In researching the status of the property this right-of-way turned up and is incompatible with the conservation easement and that is the reason for abandoning the right-of-way.

He would provide the certificate of survey and deeds, determine the location of utility easements; and depending on the cost, would like to reserve the right to not necessarily put them on the plat. The taxes have been paid and there are no liens on the property.

Responding to the concerns that were submitted by owners of American Bar, Mr. and Mrs. Butcher, and Mr. Black, he affirmed that this will remain a public access to the Gates of the Mountain for use of the facility.

Commissioner Tinsley stated the public's main concern appeared to be two separate entities being able to limit the use of that facility at their discretion by using a gate at the road and asked for some assurance regarding the public's concerns.

Mr. Grant said the Gates of the Mountains is a 501(c)(3) Corporation and part of their charter was to remain open to the public. They would lose the designation if they do not pursue the educational purpose for its intended use, which is for boat tours. The gate is a security issue that the Boat Club has put in place but the boat ramp is accessible by the public during normal hours.

Commissioner Murray thanked both the Boat Club and the Foundation for their willingness to make contributions and assist the county with resurfacing the road. He wished that the Boat Club had a better working relationship with the folks that choose to live there. American Bar was subdivided by a court order, not by a previous county commission. The county does not maintain American Bar further than Beaver Creek Bridge due to financial restraints on our public works department.

He would consider approving the abandonment of the easement as requested contingent upon the Foundation filing this easement. The Conservation Easement would protect and guarantee that the Gates of the Mountains land would not be developed commercially and it will remain in the public venue for the rest of our lives.

Public Hearing.

Dave Anderson, Commodore of the Boat Club, stated approximately 30,000 people take the boat tour every year and the road needed to be improved for public access. The Boat Club has agreed to participate when the road is ready to be chip sealed. They do not have room to park cars for people that live at American Bar; the parking is needed to run the business.

Hearing no other comments, the public hearing is closed. Commissioner Tinsley confirmed that the property ownership of the Foundation and the Boat Club would be put into a conservation easement.

Commissioner Murray moved to render a final decision Thursday, January 31 at our regularly scheduled public meeting. Commissioner Tinsley seconded the motion and it carried 2-0.

Public comments on any public matter within the jurisdiction of the Commission that is not on the agenda above. City Manager, Tim Burton, gave a report regarding the City of Helena Stage IV water restrictions. The restrictions were due to low and declining levels at the city's water storage reservoirs. No outdoor use of city water is allowed and residents are being asked to use water sparingly. Maintenance crews are making emergency leak repairs to the 14" and 24" transmission mains coming into town from the Tenmile Water Treatment Plant. Two significant water leaks have surfaced and posed repair difficulties and hazards due to the cold weather and loss of water service.

Primary water mains serving the west side of Helena must be shut down in order to make the repairs. This will result in a disruption of service to a large part of Helena's west side while repairs are being completed. Service disruptions or reductions in pressures were possible from Laurel Avenue to the Broadwater Health Club. Residents, primarily on the west side of town, will likely experience discoloration and sediment in water until the mains are repaired and brought back into service. Water discoloration is expected to last for several hours after repairs are completed and may even persist for a few days. The City of Helena appreciated the cooperation and wished to thank those affected by these leaks for their understanding and patience as they work diligently to repair these problems.

There was no other business and the meeting adjourned at 9:46 a.m.

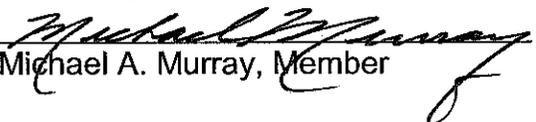
LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Ed Tinsley, Chairman



Andy Hunthausen, Vice-Chair



Michael A. Murray, Member

ATTEST:



Paulette DeHart, Clerk of the Board