

PUBLIC MEETING – January 26, 2005

The Public Meeting was called to order at 1:30 p.m. by Chair Jean Curtiss. Also present were Commissioner Bill Carey, Commissioner Barbara Evans, Chief Civil Deputy County Attorney Mike Sehestedt, Deputy County Attorney Colleen Dowdall and Public Works Director Greg Robertson.

Pledge of Allegiance

Public Comment

None

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted the past week and approve the weekly claims lists in the amount of \$263,951.41. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Hearing (Certificate of Survey): Holbrook Family Transfer

Chair Curtiss opened the public hearing.

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract B of COS 5574, located in the northwest one-quarter of Section 18, Township 13 North, Range 16 West.

Allen and Evelyn Holbrook have submitted a request to create one parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 40 acres in size located near Potomac, Montana. The Holbrooks propose to create one approximately 12 acre parcel for transfer to their daughter, LaVonna Sue Holbrook-Stinnette, for residential purposes and keep the remaining approximately 28 acre parcel for residential purposes as well.

The history of the parcel is as follows: The Holbrooks purchased this land from Michael and Nancy Chandler in October, 1978.

According to the records kept by the Missoula County Surveyor, the applicants have previously used exemptions to the Subdivision and Platting Act as listed below:

COS 2995	02/07/1988	Create a greater than 20 acre tract of land
COS 5574	07/15/2000	Boundary relocation

Allen Holbrook was present and came forward to answer questions.

Chair Curtiss stated the Board is responsible to make sure these exemptions to the Subdivision and Platting Act are legitimate family transfers as the law allows and not an attempt to evade subdivision review. The Deputy County Attorney would ask a series of questions to determine his intention.

Colleen Dowdall asked if the information she presented, that he has owned the property since 1978, was correct.

Allen Holbrook stated that was correct.

Colleen Dowdall asked if he intended to sell the remaining 28 acre parcel.

Allen Holbrook stated their intent is to sell the 28 acres.

Colleen Dowdall asked what his daughter intended to do with her parcel.

Allen Holbrook stated she was going to keep it.

Colleen Dowdall asked is his daughter was an adult.

Allen Holbrook stated she was an adult.

Colleen Dowdall asked if the property was being sold for development purposes.

Allen Holbrook stated he was not.

Colleen Dowdall asked if his daughter intended to live on the property.

Allen Holbrook stated that eventually she would live on the property.

Colleen Dowdall asked where his daughter lives now.

Allen Holbrook stated she lives in Casper, Wyoming. This property was given to her about 12 years ago and she lived there until three years ago when she married a man from Casper, Wyoming; then moved to Casper.

Colleen Dowdall asked if he or his daughter were in the business of building or developing property.

Allen Holbrook stated they were not.

Colleen Dowdall asked if he understood this was not being reviewed for adequate access or anything else that subdivision review would look at.

Allen Holbrook stated he understood that.

Colleen Dowdall stated this may not be the only approval required, it may require the lifting of sanitary restrictions, zoning compliance, etc., before something could be built on the parcel.

Allen Holbrook stated he understood that. The parcel already has a house on it.

There being no further comments, the public hearing was closed.

Commissioner Carey moved that the Board of County Commissioners approve the request by Allen and Evelyn Holbrook to create one parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Evans seconded the motion. The motion carried on a vote of 30.

Hearing: Petition to Alter a County Road (Remount Road)

Chuck Wright, Assistant Public Works Director, presented the staff report.

This is a petition to alter a portion of that certain County road specifically described as:

Remount Road, located in Section 28, Township 15 North, Range 22 West, from the northerly boundary of Resolution 2004-085 (Micro Book 735, Page 169 – north one-half, northeast one-quarter, northwest one-quarter, Section 28) to the section line common to Sections 21 and 28.

The reasons for the request are as follows:

1. Remount Road, Deed Exhibit No. 59 (Deed Book 117, Page 44) does not coincide with the as built and existing roadway.
2. Adjoiners, Deed Exhibits 402 (Deed Book 172, Page 611), 2247 (Micro Book 14, Page 206) and 2096 (Micro Book 10, Page 1) do not coincide with the as built and existing roadway.

The following landowners have been notified: Mark S. Millhouse; Kenneth K. and Cora A. Krout; Patrick K. and Donna M. Paige; Donald R. and Helen M. Harrington; and Harvey and Lorraine Millhouse.

Chair Curtiss opened the public hearing. There were no comments.

Mike Sehestedt stated the hearing should be recessed and arrangements made to conduct a site visit with one Commissioner and a representative of the Public Works Office. The Board will reconvene at a date certain, receive a report from the site visit and take any additional public comments, then make their decision on the petition.

Chair Curtiss stated a site visit would be scheduled prior to next Wednesday's Public Meeting. The hearing will be recessed until Wednesday, February 2, 2005, when the Board will make their decision.

Hearing: Petition to Annex Property into Missoula Rural Fire District (11000 Cambridge Road)

Mike Sehestedt presented the staff report.

A petition has been received by the Clerk & Recorder's Office to annex a parcel of land, located in Missoula County, into the Missoula Rural Fire District.

The petition has been checked and verified. It contains signatures of more than 50% of the owners of the privately owned land in the area to be annexed and a majority of taxpaying freeholders within the area described, thereby meeting the requirements of 7-33-2125 MCA for annexation of adjacent territory.

A letter from the Missoula Rural Fire District Board of Trustees is included with the petition indicating their willingness to annex the property into the district.

The area to be annexed is described as follows:

"That particular parcel of land situated in the northwest one-quarter of Section 14, Township 13 North, Range 18 West, Principal Meridian, County of Missoula, State of Montana, being more particularly described as follows: Tract A of Certificate of Survey 3094 and Portion B of Certificate of Survey 3948, records of the County of Missoula, State of Montana (see Exhibit A)."

Curt Belts, Missoula Rural Fire District, stated this property is located up the Blackfoot, essentially across the river, access above Wisher Bridge in the Cambridge Addition. It was the Cambridge's land that was subdivided, but this is the last house to annex into the district. The Bonner Fire Station would respond in the event of a fire.

Chair Curtiss opened the public hearing. There being no comments, the public hearing was closed.

Commissioner Evans moved that the Board of County Commissioners approve the petition to annex a parcel of land, located in Missoula County, into the Missoula Rural Fire District, described as follows: "That particular parcel of land situated in the northwest one-quarter of Section 14, Township 13 North, Range 18 West, Principal Meridian, County of Missoula, State of Montana, being more particularly described as follows: Tract A of Certificate of Survey 3094 and Portion B of Certificate of Survey 3948, records of the County of Missoula, State of Montana (see Exhibit A)." Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Hearing: Carbon Monoxide Redesignation Request (Air Pollution Control Board)

Shannon Therriault, Environmental Health Department Supervisor, presented that staff report.

This is a request to adopt a resolution supporting the Missoula County Carbon Monoxide Redesignation Request and Maintenance Plan and recommending the Governor submit it to the EPA for review, approval and inclusion into Missoula's portion of the State Implementation Plan (SIP).

The Missoula City-County Air Pollution Control Board, after a public hearing and a subsequent public meeting, has approved and passed the Missoula County Carbon Monoxide Redesignation Request and Maintenance Plan. The request demonstrates how Missoula meets the federal requirements for the United States Environmental Protection Agency (EPA) to redesignate Missoula to a carbon monoxide maintenance area from our current status as a non-attainment area. The plan represents the success Missoula has had in lowering ambient carbon monoxide levels through a variety of control measures, such as wood stove regulations, the wintertime oxygenated fuel program and transportation system changes. A maintenance plan is included in the redesignation request and shows how Missoula will continue to meet the federal carbon monoxide standard in the future. The maintenance plan proposes to keep all existing control strategies in place. The plan does not add any new control strategies, with the exception of establishing a CO budget for transportation conformity determinations, as is required by the Clean Air Act. The plan must be updated 8 years after the EPA approves redesignation and at that time, current control strategies can be re-evaluated.

This request is being forwarded to the County Commissioners because the Clean Air Act requires the Missoula Air Pollution Control Board, as the lead SIP-planning agency, to consult with units of local government for changes to the SIP. After the request is considered by the Board of County Commissioners and City Council, it can be

forwarded to the Department of Environmental Quality and the Governor for submittal to the EPA. The EPA has 18 months to make its decision on redesignation.

The City-County Health Department recommends the Board of County Commissioners support the Missoula Carbon Monoxide Redesignation Request and proposed Maintenance Plan and recommends the Governor of the State of Montana submit it to the EPA for review, approval and inclusion into Missoula's portion of the State Implementation Plan.

In 1978, Missoula was designated as non-attainment for carbon monoxide pollution, however, there has not been a violation of the Federal Ambient Air Quality Standards since 1991. This procedure is not as simple as merely pointing to the monitor which says there is no more violation, so redesignate Missoula. There were five criteria that the County had to meet. This plan shows how the first four will be met and submits a maintenance plan to show how carbon monoxide levels will remain below the Federal standard in the future.

Criterion 1: Attainment of the Applicable National Ambient Air Quality Standard. There is monitoring that show the standard has not been violated since 1991.

Criterion 2: State Implementation Plan Approved by EPA. In 2000, many changes were made to the Air Regulations and the SIP was approved at that time by the EPA. That approval still stands.

Criterion 3: Permanent and Enforceable Improvements in Air Quality. The actions have been shown to be permanent and enforceable improvements, including wood stove reductions and decreases in transportation emission.

Criterion 4: Fulfillment of CAA § 110 and Part D Requirements. The County has shown that they have fulfilled all the parts of the Clean Air Act that pertain to it.

Criterion 5: Fully Approved Maintenance Plan under CAA § 175A. The Maintenance Plan is included and contains several parts. It is the meat of the redesignation request and shows how the County will continue to keep carbon monoxide levels below Federal standards. The core provisions include:

- Provision 1. Attainment Emission Inventory
- Provision 2. Maintenance Demonstration
- Provision 3. Approved Monitoring Network and Verification of Continued Attainment
- Provision 4. Control Plan
- Provision 5. Contingency Plan
- Provision 6. Conformity Determinations under the Maintenance Plan
- Provision 7. Maintenance Plan Revisions

Chair Curtiss opened the public hearing.

Commissioner Evans stated that a potential contingency measure would be to expand the months in which oxygenated fuel is required. She had a concern about being able to purchase non-oxygenated fuel for snow blowers and other equipment that need it. It has been her experience that it is difficult to find.

Shannon Therriault stated there are several places in the control area that sell non-oxygenated fuel for those purposes. She knows of a few in Lolo and Cenex also does. Expanding the use of oxygenated fuel is just a contingency measure that is currently in the Air Pollution Control Program. Even if there was a violation of standards, which is highly doubtful, this contingency would not be automatic.

Commissioner Carey stated that it would make sense to have the oxygenated fuel program last longer than it currently does.

Shannon Therriault stated that no reductions in carbon monoxide need to be shown, so they are not recommending any expansion of control measures. In 1992, these were the months when there were CO violations, so those months were targeted and mandated by the Clean Air Act. For awhile, Helena had oxygenated fuel available during the entire year. There has been a bill introduced to require production of oxygenated fuel year round, which major refinery do not currently manufacture.

Commissioner Carey stated that if it reduces CO emissions, why wouldn't it be done longer.

Shannon Therriault stated it is because the standard is not being violated. It would continue to reduce CO emissions from older cars during the other months, but the County doesn't need to enforce that. It isn't necessary to keep the level below the standard. It is hard to measure whether the air would be cleaner with it during the non-required months because the dispersion is better. The problem is the inversion that occurs during the winter months.

Commissioner Evans stated that she had heard it wasn't good for vehicles and had other health effects.

Mike Sehestedt stated that was when MTBE was being used. Now that the switch has been made to ethanol, that is no longer a concern.

Chair Curtiss stated that questions and concerns from the public that were raised at previous public meetings have all been addressed in this report. She felt the Environmental Health Department had done a great job of responding to the public in this process.

There being no further comments, the public hearing was closed.

Commissioner Carey moved that the Board of County Commissioners adopt a resolution supporting the Missoula County Carbon Monoxide Redesignation Request and Maintenance Plan and recommend the Governor submit it to the EPA for review, approval and inclusion into Missoula's portion of the State Implementation Plan (SIP). Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Shannon Therriault introduced Ben Schmidt, an Air Quality Specialist who has been with the Health Department for almost 15 years, and Jan Scheer, also an Air Quality Specialist, who has just recently joined the staff at the Health Department. Prior to that, Jan was a part of the Air Quality Advisory Council.

Hearing: Intent to Create RSID No. 8485 (Mullan Trail Sewer)

Greg Robertson presented that staff report.

This is a request to create RSID No. 8485 – Mullan Trail Sewer connection. A Resolution of Intent to Create RSID 8485 was passed on December 21, 2004 for the purpose of connecting the Mullan Trail Subdivision to the Mullan Sewer/Municipal Sewer Treatment Facility. The total amount of the bonds to be assessed against the properties in the district is \$31,000.00. The total estimated cost per individual connection, including County costs, is \$340.00 over a period of 15 years. There are 90 lots in the district. No protests were received during the protest period. It is the recommendation of Public Works to proceed with creation of RSID No. 8485 – Mullan Trail Sewer connection.

Chair Curtiss opened the public hearing. There being no comments, the public hearing was closed.

Commissioner Evans moved that the Board of County Commissioners adopt a Resolution to Create RSID No. 8485 – Mullan Trail Sewer connection, based on the determination that no protests were received. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Hearing: Intent to Create RSID No. 8486 (Country Crest Sewer)

Greg Robertson presented that staff report.

This is a request to create RSID No. 8486 – Country Crest Sewer connection. A Resolution of Intent to Create RSID 8486 was passed on December 21, 2004 for the purpose of connecting the Country Crest Subdivision to the Mullan Sewer/Municipal Sewer Treatment Facility. The total amount of the bonds to be assessed against the properties in the district is \$283,000.00. The total estimated cost per individual connection, including County costs, is \$4,716.67 over a period of 15 years. There are 60 lots in the district. No protests were received during the protest period. It is the recommendation of Public Works to proceed with creation of the RSID No. 8486 – Country Crest Sewer connection.

Chair Curtiss opened the public hearing.

Bill Holt: My name is Bill Holt and I live at Country Crest and I've watched this thing from the very beginning and I didn't want to disappoint Mike because nobody whined and moaned about the thing. Anyway, there's not much we can whine and moan about, but I've been watching the thing all the way and we got a lot of money out there for doing this thing. I wouldn't have done it that way. I think you put, everybody put everything into it and it all ended up going to us so we made out like bandits. But, I'm still sitting on 140 feet of clay and I'm no threat to the river and so I

accept your money and I'm just as happy as can be. I can let, Greg doesn't know it, I have to hide every time he comes and brings a quilt to my wife to accept as a source of income, I have to hide out. Anyway, we're pretty happy but again, the Interlocal Agreement with the City gives us no input into anything and I don't know if you're working on changing that or if it makes any difference. The things you do, I have no idea how you do it, it's impossible from what I can see. But the contract that I have to sign if I want to use that sewer that I have to pay for and that you helped me pay for, I cannot sign because there's nothing in it for me. It's all based on, it says I can't protest anything or do anything and that was because Phantom Hills got started, is that I had no comment in what was happening to me. If I'd have done it, what I would have done is call out the neighbor that was suing me out there and we'd sold our house and we all come out better and we'd had less traffic and less people living out there but it's going to be great for all my neighbors 'cuz they can split off a lot and sell it for \$100,000. The lots that are selling out, not the lots, but the homes out there, their model home out on the golf course is \$450,000. And, so, anyway, that contract and Interlocal Agreement are a bit nasty but, like I say, this is a lot better thing than we started with. I just wonder what would have happened if we'd have shoved that through when nobody was looking and we'd have a \$27,000 bill and things like that and that kind of mess and so, I thank you for your patience and it did work out. But this government thing is kind of a nasty deal to me, but it did work pretty good, but I would say it's all new to me, cuz I'm not, the first time I talked to you I said I was just amazed that you have to sit here with an attorney all the time and now looking at the whole thing, if I have to do it over again, that's the first place I would go to represent my position. I didn't get hurt in this and I came out fine and if I go to sell my house, I pay the thing off and so it's pretty good, so, I thank you but, yes, you go on the way and you're just have to pass through and you get a lot of people in here yelling and shouting. The other thing I did want to mention and to me, and it's, if it was so important that I have sewer then I do not think that when Target Range has to have sewer, I think they should have sewer if I have to have it, because they're stuck out there on sand and gravel and they're about 10 or 12 feet above the water and I'm 140 feet above the water on solid clay. So, when that comes up again, I don't think they have a case. Now those guys would kill me and I was hoping they would help me secure this thing in the beginning and they tried but they didn't, so I'll shut up and I don't know if that was a protest from me. I thank you anyway.

There being no further comments, the public hearing was closed.

Commissioner Evans moved that the Board of County Commissioners adopt a Resolution to Create RSID No. 8486 – Country Crest Sewer connection, based on the determination that no protests were received. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

There being no further business to come before the Board, the Commissioners were in recess at 2:10 p.m.