

PUBLIC MEETING – March 16, 2005

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

Pledge of Allegiance

Public Comment

None

Routine Administrative Actions

Commissioner Carey 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 \$787,653.28. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Hearing (Certificate of Survey): Fee Family Transfer (Continued from March 9, 2005)

Colleen Dowdall presented the staff report.

The hearing on this request was opened last week, but no one was present to represent the family so the hearing was continued until today. This is a consideration of a request to create a family transfer parcel for that parcel described as Tract 12 of COS 135, Double Arrow Ranch Phase V, Sections 5 and 6, Township 16 North, Range 14 West.

Jeffery D. Fee has submitted a request to create one parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 10.10 acres in size, located near Seeley Lake, Montana. It is in the portion of the Double Arrow Ranch that is not part of a platted subdivision but was created by use of exemptions. Jeffery proposes to create one approximately 4.55 acre parcel for transfer to his wife, Kimberly D. Fee, for residential purposes and keep the remaining approximately 5.5 acre parcel for residential purposes as well.

The history of the parcel is as follows: The parcel was created when COS 135 was filed in 1973, creating 35 parcels greater than 10 acres in size. The property was deeded to Jeffery D. Fee in January, 2005, although Mr. Fee indicated he had owned the property since June, 2004.

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Toby Dumont from Professional Consultants, Inc. stated he was representing the Fee family and apologized for not being present last week.

Chair Curtiss stated that Jeffrey and Kimberly Fee are not in Montana.

Toby Dumont stated they were not, that he is aware of.

Chair Curtiss stated that the list of questions that applicants are usually asked was faxed to them. Colleen would read the responses for the record.

Colleen Dowdall stated that they responded to the question, "How long have you owned the property," that they had owned it since June of 2004. However, she has a deed from the prior owners that was executed on the 13th of January, 2005, and recorded on the 18th of January, 2005. They stated they did not buy the property with the intent of dividing it and that the transferee, Kimberly Fee, does not intend to transfer the property within the next year. In response to the question, "Will the property be developed," the response was, "No current plans, maybe will." In response to the question, "Will the recipient of the property be residing on the property," the answer is, "At a later date, but the recipient currently lives in Chattanooga, Tennessee." They have not talked to anyone about going through subdivision review. They are not in the business of building or developing property. They are not attempting to evade subdivision review. They do understand the request has not been reviewed for adequate access or for approval as to zoning compliance, floodplain or septic systems.

Mike Sehestedt stated that in this case, it should be noted the request was not reviewed for compliance with restrictive covenants, if any.

Chair Curtiss stated that the Double Arrow does have some restrictive covenants.

Toby Dumont stated that to the best of his knowledge, all their answers were accurate.

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. She had some concerns about the proposal and not being able to talk with the applicants about their request. This was a recent purchase, the applicants don't live here or plan to live here any time soon. It looked more like speculation, that the property will increase in value and would be worth more if there were two lots.

Commissioner Evans stated that the request was notarized as being done under oath.

Colleen Dowdall stated the application is an affidavit.

Mike Sehestedt stated the applicant has sworn to the truth of the matter. Their answer that they did not purchase the property with the intent to divide it in January and request a division in mid-March does not seem credible. Absent their ability to explain in more detail why they are requesting the transfer certainly raises a red flag. The deed was recorded on January 18, 2005 and the affidavit was filed on the 25th of January, 2005. It might be easily explainable, and the decision is the Board's to make.

Commissioner Evans asked Toby if he knew how these people found out about this land. Had it been advertised on the Internet as land that could be split.

Toby Dumont stated the previous owners, the Kennedys, live in Tennessee and are acquainted with the Fees.

Commissioner Evans asked if the Fees ever saw the land prior to their purchasing it.

Toby Dumont stated that he believed the Fees vacationed here.

Commissioner Evans stated that they did not buy the property with representation that it could be split.

Toby Dumont stated he did not believe so, but has limited knowledge of the reason for the transaction.

Commissioner Evans asked if they might be in Montana at some time in the future.

Toby Dumont stated they were planning to build a house or a cabin on the land rather than staying at the Double Arrow.

Commissioner Evans stated that her feeling would be, rather than deny this action, to postpone action until the applicant could be present to answer questions.

Commissioner Carey stated that he concurred.

Commissioner Evans moved that the Board of County Commissioners table the request from Jeffery D. Fee to create a family transfer parcel until such time as the applicant can be present to testify directly. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Mike Sehestedt stated there is currently no monetary fee applicable for family transfers, but work is in progress to adopt a fee schedule for them. If this application comes back before the Board, it would be considered a pending application and no fee would be applied. The hearing should not be closed; the motion tabled the hearing with the intent to gather further testimony.

Hearing (Certificate of Survey): Amon Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as the southwest one-quarter of the northeast one-quarter and the southeast one-half of the southeast one-quarter and the northwest one-

quarter of the southeast one-quarter of Section 27, Township 16 North, Range 23 West and the west one-half of the northeast one-quarter of Section 34, Township 16 North, Range 23 West.

Laura R. Amon has submitted a request to create one parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 142 acres in size located near Ninemile. Laura proposes to create one approximately 130 acre parcel for transfer to her husband, Rick E. Amon, for estate planning purposes to be retained by the family for horses, recreation and a barn. The State of Montana will be doing a wetland restoration project in the summer of 2005. The remaining approximately 12 acre parcel will be kept for residential purposes as well.

The history of the parcel is as follows: This property was purchased by Alfred Barone in 1986. Alfred deeded the property to Rick and Laura Amon in January, 1998. A warranty deed filed in February, 2005, deeded the property to Laura R. Amon.

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act, except as listed below:

COS 5655 01/10/2005 NE SE Sec 27, T16N, R23W Family Transfer

Laura Amon stated that they have owned the property since 1996, not 1998 as Colleen Dowdall reported.

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 her intention.

Colleen Dowdall asked if they purchased the property with the intent to divide it.

Laura Amon stated they did not buy it with the intent to divide it.

Colleen Dowdall asked if they intended to transfer either parcel within the next year.

Laura Amon stated they did not. They have been acquiring more land in the Ninemile, they have just purchased an adjoining 85 acres. It is their intention to reclaim the land and bring it back to its original state when it was homesteaded by the Pretzls(?), whose children are good friends of theirs. Irma just turned 100 and they have been helpful in working with the State to determine how the property used to look.

Colleen Dowdall asked if either of the parcels would be developed for residential purposes.

Laura Amon stated they would like to put a barn with a loft on the 12 acre parcel so they could move back out there. They lived in the Ninemile for 14 years but moved into town about 5 years ago when their first child was born. There is no house on the property but they would like to build a barn with some living quarters above so they can at least spend weekends there.

Colleen Dowdall stated that both she and Rick live in town currently.

Laura Amon stated that was correct.

Colleen Dowdall asked if she had discussed with anyone going through subdivision review.

Laura Amon stated she had not.

Colleen Dowdall asked if she was in the business of building or developing property.

Laura Amon stated they were not, her husband is a business owner and wildlife biologist and she is a mom.

Colleen Dowdall asked if she was attempting to evade subdivision review.

Laura Amon stated she was not.

Colleen Dowdall asked if she understood that this has not been reviewed for adequate access or for zoning compliance or approval of septic systems, etc.

Laura Amon stated she understood that.

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 request by Laura Amon 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 Carey seconded the motion. The motion carried on a vote of 3-0.

Hearing (Certificate of Survey): Korn-Dunning Family Transfer

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 4-A of COS 1989, located in the northwest one-quarter of Section 26, Township 13 North, Range 16 West.

Steven A. Korn and Darla D. Dunning 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 10 acres in size, located near Bonner, Montana. Steven and Darla propose to create one approximately five acre parcel for transfer to Bob and Ruth Korn, Steven's parents, for residential purposes and keep the remaining approximately 5.7 acre parcel for residential purposes as well.

The history of the parcel is as follows: In 1978, COS 1508 was filed to create 7 tracts of land with areas equal to or greater than 20 acres. In 1979, COS 1989 was filed creating Tract A for occasional sale and Tract B a remaining parcel. Tract 4-A has changed ownership numerous times since 1979. Steven Korn and Darla Dunning were deeded the property in July, 2001.

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Darla Dunning 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 their intention.

Colleen Dowdall asked if it was correct that they have owned the property since July, 2001.

Darla Dunning stated that was correct.

Colleen Dowdall asked if they purchased the property with the intent of dividing it.

Darla Dunning stated they did not.

Colleen Dowdall asked if they or Steven's parents intend to transfer the property within the next year.

Darla Dunning stated they and Steven's parents did not intend to sell the property.

Colleen Dowdall asked if the property would be developed.

Darla Dunning stated Steven's parents are getting older and live up in Condon and they would like them closer. The plan is for them to eventually build a house.

Colleen Dowdall stated she and Steven currently reside on the property and Steven's parents intend to reside there also.

Darla Dunning stated that was correct.

Colleen Dowdall asked if they had talked to anyone about going through subdivision review.

Darla Dunning stated they have not.

Colleen Dowdall asked if she or her husband were in the business of building or developing property.

Darla Dunning stated they were not.

Colleen Dowdall asked if they were attempting to evade subdivision review.

Darla Dunning stated they were not.

Colleen Dowdall asked if they understand that this is not being reviewed for adequate access or zoning compliance, septic permits, etc. All those approvals will have to be secured prior to building on the property.

Darla Dunning stated they understood that.

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

Commissioner Carey moved that the Board of County Commissioners approve the request by Steven Korn and Darla Dunning 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 3-0.

Hearing (Certificate of Survey): Busby Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create family transfer parcels for that parcel described as Tract 7A of COS 514A, being a tract of land in the east one-half of the southeast one-quarter of Section 30, Township 13 North, Range 14 West.

Larry Busby has submitted a request to create two parcels using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 10 acres in size located near Bonner, Montana. Larry proposes to create 2 additional parcels, each approximately one acre in size; one for transfer to his son, Lee Busby; and one for transfer to his daughter, Wendy Leetch, for residential purposes and keep the remaining approximately 8 acre parcel for residential purposes as well.

The history of the parcel is as follows: In 1974, COS 485 was filed to create eight parcels of land, each 20 acres or greater. In 1975, Richard and Emily Bingham had COS 514A filed for the propose of division of property solely for transfer to family members, dividing the property into 10 acre parcels. Tract A has changed owners numerous times since 1975. A Notice of Purchaser's Interest was filed in September, 2003, naming Larry L. Busby and Gwen E. Busby as buyers.

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Larry Busby was present and came forward to answer any 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 stated that the record indicates he purchased the property in 2003. Is that correct?

Larry Busby stated that was correct.

Colleen Dowdall asked if he purchased the property with the intent of dividing it.

Larry Busby stated he did not.

Colleen Dowdall asked if he resides on the property currently.

Larry Busby stated he did live on the property.

Colleen Dowdall asked if his son and daughter intend to reside on the property.

Larry Busby stated they did intend to live there.

Colleen Dowdall asked if there were multiple houses on the property now.

Larry Busby stated there was only his house.

Colleen Dowdall asked if he or his son or daughter intend to transfer or sell the property within the next year.

Larry Busby stated they did not.

Colleen Dowdall asked if the property will be developed.

Larry Busby stated his children will each build a house.

Colleen Dowdall asked if his children's intent is to reside on the property.

Larry Busby stated that was correct.

Colleen Dowdall asked where his children live now.

Larry Busby stated that one child lives with him and his wife and the other child lives in Missoula.

Colleen Dowdall asked if he had talked to anyone at the County about going through subdivision review.

Larry Busby stated he had not.

Colleen Dowdall asked if he was in the business of building houses or developing property.

Larry Busby stated he was not.

Colleen Dowdall asked if he was attempting to evade subdivision review.

Larry Busby stated he was not.

Colleen Dowdall asked if he understands that this is not being reviewed for adequate access or zoning compliance, septic permits, etc. All those approvals will have to be secured prior to building on the property.

Larry Busby stated he understood that.

Chair Curtiss stated the request shows the property is owned by both he and Gwen E. Busby but her name does not appear on the request.

Larry Busby stated she could not be present today, but she is very much involved in the request.

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

Commissioner Carey moved that the Board of County Commissioners approve the request by Larry Busby to create two additional parcels 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 3-0.

Hearing: Proposed Application to State CDBG Program on Behalf of Rocky Mountain Biologicals

Cindy Wulfekuhle presented the staff report.

Rocky Mountain Biologicals is asking the County to submit an application to the State of Montana for a Community Development Block Grant in the amount of \$295,000; \$270,000 of which will be loaned to Rocky Mountain Biologicals. The balance will be used for administration of the project. The total project cost is \$3,375,000. Other sources of funding include a \$150,000 Missoula Area Economic Development Corporation loan, \$780,000 Community Reinvestment Fund loan, plus \$1,450,000 in private equity and a \$700,000 bank line of credit.

Rocky Mountain Biologicals, a biological by-product processing company, develops, manufactures and sells specialized blood products used by pharmaceutical and biotechnology industries as well as academic centers in the U.S. and abroad. As a condition of receiving CDBG loan assistance, Rocky Mountain Biologicals will create between 15 and 20 new jobs within two years, most of which will be filled by low to moderate income individuals

Dick King with MAEDC is here and can provide more information concerning the project. Suresh Daniel, with Rocky Mountain Biologicals, had to leave for the airport. Kevin Sheehan, who is also with Rocky Mountain Biologicals, is here to answer any questions you may have and may also wish to make a statement.

Chair Curtiss opened the public hearing.

Dick King handed out a chart showing the sources of funding for the company. He emphasized that a significant portion of this project is being funded by shareholder investment equity. The MAEDC loan was approved by its Board of Directors. The Community Reinvestment Fund has been aware of this project and the final approval package will go to them later this week. The bank has approved a line of credit. The CDBG application, if the Board approves, will be submitted and acted on by the Department of Commerce. He introduced Charlie Wright, the new Regional Development Officer for the Montana Department of Commerce. This project does not create a huge number of jobs, but it is a company in an industry that presents a real opportunity for Missoula and the region, Life Sciences and Biotech. Endobiologics is a company at the Development Park that is another example of an emerging industry cluster in the area. The Health Services sector of the economy has been the strongest single component of Missoula County's economy in the last 10 to 15 years. Over 5,000 new jobs have been created in the Health Services sector since 1990 and most jobs, on average, pay more than the average wage. This company is building on the Life Sciences and Biotech framework at the University of Montana to manufacture a product. This project is especially appealing because it is a start up company with secured purchase orders for its product, knows who its customers are and at what price they will buy and sell goods. As Cindy mentioned, Suresh Daniel left to catch a plane. He is headed for Los Angeles to present a demonstration of the product to a company that will very likely become a customer. This firm can hit the ground running and be very successful, as reflected by the investment equity raised and the commitment to purchase equipment.

Dr. Kevin Sheehan stated he would be happy to answer questions.

Commissioner Evans asked if the project would cause any water or air pollution.

Dr. Sheehan stated it would not cause any pollution.

Commissioner Carey asked if the \$5 million is contingent on any financing coming into place.

Dr. Sheehan stated it is based on acceptance that the product that they will make will be of the quality of the samples produced.

Commissioner Evans stated the funding would create jobs for local people and training would be provided.

Dr. Sheehan stated that was correct.

Commissioner Carey asked if the training would be done through the business or is there potential for vocational education.

Dr. Sheehan stated the training would be through the business.

Chair Curtiss asked what kind of skills would be necessary.

Dr. Sheehan stated the positions would be mostly lab technicians.

Cindy Wulfekuhle stated that the CDBG funds will be used to purchase equipment. Also, as part of today's public hearing, they are requesting the Board sign a resolution authorizing submittal of the grant application.

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

Commissioner Carey stated for the record that Dr. Sheehan is his personal physician.

Commissioner Evans moved that the Board of County Commissioners approve the resolution to authorize submittal of a State CDBG application on behalf of Rocky Mountain Biologicals, Inc., finding it is in the public interest to do so

and that the request meets CDBG guidelines by creating jobs which will be filled by low to moderate income individuals. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Mike Sehestedt asked where the business would be located.

Chair Curtiss stated it will be out in the Development Park area, right next to the property owned by the County.

Dick King stated an application will be submitted to the State's basic Job Training Work Force Development Act that was authorized by the Legislature in 2003 session. Two bills are currently working their way through the Legislature, House Bill 270 and House Bill 271, that make some needed changes to that training program. It is expected those bills will be well received. The program is in place that can provide up to \$5,000 per new job created. Given the skills of the management team, most of the training will take place on-site at the facility and will allow the company to meet the goal of low to moderate income benefit.

Hearing: Annex Property to Missoula Rural Fire District (Longhorn Flat Subdivision – Highway 12)

Chair Curtiss opened the hearing.

A petition has been received by the Clerk and Records 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 owners of the privately owned land in the area to be annexed and a majority of tax-paying freeholders within the area described, thereby meeting the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory. The area to annexed is described as follows (for complete legal descriptions, see map on file in the Clerk and Records Office):

“All those parcels of land situate in the Southeast one-quarter of Section 32, the West one-half of Section 33 and the Northeast one-quarter of Section 33, Township 12 North, Range 20 West, Principal Meridian, County of Missoula, State of Montana, being more particularly described as follows and as shown on attached Exhibit A:

Preliminary plat Longhorn Flat filed in the Missoula County Surveyor's Office on October 20, 2004 in Work Order 04-4799, being a portion of Tract R of Certificate of Survey 2450, a recorded Certificate of Survey in the County of Missoula, State of Montana.”

Annexation into the Rural Fire District was a condition of approval for Longhorn Flat Subdivision. The Missoula Rural Fire District Board of Trustees approved the annexation at their January meeting. The purpose of today's action is to hear any protests that have been received from either the residents in the area to be annexed or property owners in the Missoula Rural Fire District. If no protests are received, the Board's duty is to approve the annexation.

Kim Cox, Clerk and Records Office, verified that the petition does contain the necessary signatures of the majority of the freeholders in the area that is proposed for annexation.

Curt Belts, Missoula Rural Fire District, stated the District would accept this property for annexation.

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

Commissioner Carey moved that the Board of County Commissioners approve the petition to annex the parcel of land described above into the Missoula Rural Fire District, based on the finding that there were insufficient protests to prevent the annexation. Commissioner Evans 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.