

PUBLIC MEETING – October 12, 2005

The Public Meeting was called to order at 1:30 p.m. by Chair Jean Curtiss. Also present were Commissioner Bill Carey, Deputy County Attorney Colleen Dowdall and Assistant Public Works Director Chuck Wright. Commissioner Barbara Evans was attending a funeral.

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 list in the amount of \$249,300.66. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Hearing (Certificate of Survey): McBroom Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer for that parcel described as Tract 50A-3 of COS 5622, located in the northeast one-quarter of Section 17, Township 14 North, Range 20 West.

Jeffery S. McBroom 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 five acres in size located near Huson, Montana. Jeffery proposes to create one approximately 2.44 acre parcel for transfer to his mother, Pam McBroom, for residential purposes and keep the remaining approximately 2.44 acre parcel for residential purposes as well.

The history of the parcel is as follows: Geneva Cates had this property divided into 20 acre tracts in 1979, COS 1925. The property was then transferred to Spitz War Bonnett Lodge in January, 1985, by Quit Claim Deed. Leon and Catherine Spitz deeded the property to Vern and Mary Byrd in November, 1991. The property was later deeded back to Leon Spitz, who deeded the property to Harry Schwaigert in December, 1992. The Schwaigerts deeded the property to Colleen Baker and Michael Smart in August, 1999. Colleen and Michael applied and were approved to do a family transfer of 15 acres to their son. The 15 acre tract, 50A, was deeded to Thomas P. Haffey in August, 2002. Jason Leishman was deeded the property on February 2, 2004. Leishmans filed COS 5622 in October, 2004, creating three additional tracts for family transfers. The Leishmans filed a Warranty Deed in May, 2005, deeding this parcel, the remainder, to Jeffery S. McBroom.

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act. In the affidavit, Mr. McBroom states that he is living on 2.44 acres and he is giving his mother 2.44 acres. When she retires, she plans to move to the property and live on her half.

Chair Curtiss: Thank you. Is Mr. McBroom here? If you could come to the microphone and state your name for the record. Mr. McBroom, we have a list of questions that we ask the Deputy County Attorney to read to you and have you answer on the record. Colleen?

Jeff McBroom: Thank you. My name is Jeffery Scott McBroom.

Colleen Dowdall: So, was my report accurate in how long you've owned the property?

Jeff McBroom: Correct, yes.

Colleen Dowdall: Okay. When you bought the property, did you intend to divide it?

Jeff McBroom: No I did not.

Colleen Dowdall: Okay. Do you intend to transfer your portion or does your mother intend to transfer her portion in the near future?

Jeff McBroom: No.

Colleen Dowdall: Your portion is developed?

Jeff McBroom: We're building a house right now on my side, for myself, yes.

Colleen Dowdall: Okay. So you don't reside there yet?

Jeff McBroom: No, it'll be done in about two more months.

Colleen Dowdall: Okay, and where does your mother reside now?

Jeff McBroom: Washington State.

Colleen Dowdall: And you reside in Missoula?

Jeff McBroom: Correct.

Colleen Dowdall: Okay. Have you talked to anyone at OPG or Missoula County about going through subdivision review?

Jeff McBroom: No I haven't.

Colleen Dowdall: Are you in the business of developing property or building houses?

Jeff McBroom: No, nope.

Colleen Dowdall: So this house is for your personal residence?

Jeff McBroom: The one that's being built now? Yes, they are building it for me.

Colleen Dowdall: Okay. "They" being?

Jeff McBroom: Thompson Construction.

Colleen Dowdall: Are you attempting to evade subdivision review?

Jeff McBroom: No, I'm not.

Colleen Dowdall: And you understand that evasion could be a misdemeanor?

Jeff McBroom: Yes.

Colleen Dowdall: You also understand that this request isn't being reviewed for adequate access or any of those things that we review during subdivision review?

Jeff McBroom: Sure.

Colleen Dowdall: And that you may need other permits in order to complete your house – septic permits?

Jeff McBroom: Right.

Colleen Dowdall: This only gives you permission to divide the property.

Jeff McBroom: Right.

Chair Curtiss: Thank you Colleen. Did you have anything that you'd like to add?

Jeff McBroom: No.

Chair Curtiss: This is a public hearing, so I'll officially open the hearing. Is there anyone here who would like to make comment about this transfer of property? Seeing no one come to the mic, we'll close the hearing.

Commissioner Carey moved that the Board of County Commissioners approve the request by Jeffery S. McBroom 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. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Hearing (Certificate of Survey): Dundas Family Transfer (Postponed from October 5, 2005)

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 1 of COS 3464, located in Section 35, Township 14 North, Range 19 West.

Stephen F. and Judith S. Dundas 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 42.7 acres in size located near Missoula, Montana. Stephen and Judith Dundas proposes to create one approximately 20 acre parcel for transfer to Colin M. Dundas and Guthrie W. Dundas, their sons, to be held jointly, for residential purposes and keep the remaining approximately 20 acre parcel for residential purposes as well.

The history of the parcel is as follows: Certificate of Survey 3464 was filed in May, 1987 for the purpose of creating five tracts of land, each being greater than 20 acres in size. A Warranty Deed was filed deeding Tract 1 of COS 3464 to Stephen F. and Judith S. Dundas in 1987.

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

Chair Curtiss: Is Stephen or Judith here. Could you state your name for the record?

Judith Dundas: Yes, I'm Judith Dundas.

Chair Curtiss: Okay, and we'll have the Deputy County Attorney read the same list of questions to you.

Judith Dundas: Okay, thank you.

Colleen Dowdall: So was my time that you've owned the property accurate?

Judith Dundas: That's right, we've had it since 1987.

Colleen Dowdall: And if you did buy it with the intent of dividing it, you've been very patient. You had no intent of dividing it then?

Judith Dundas: Not subdivide it when we first bought it, no.

Colleen Dowdall: Do you or your sons intend to transfer the property within the next year?

Judith Dundas: No.

Colleen Dowdall: Are your sons adults?

Judith Dundas: Yes, in fact I have a letter from them talking about what the land means to them.

Colleen Dowdall: Where do your sons live now?

Judith Dundas: One of my sons is a graduate student, he's in Tucson, Arizona, and my other son is a senior in college in Claremont, California.

Colleen Dowdall: And do you reside here on the property?

Judith Dundas: Yes we do.

Colleen Dowdall: Have you talked to anyone at the County about going through subdivision review to divide the property?

Judith Dundas: No we haven't.

Colleen Dowdall: Are you attempting to evade subdivision review?

Judith Dundas: No we're not.

Colleen Dowdall: And you understand the possible consequences of evasion?

Judith Dundas: Right, I understand why this law, the family transfer, was put in place, the purpose of it.

Colleen Dowdall: And you understand that we are not reviewing this for adequate access or emergency services, any of those things that we review subdivisions for?

Judith Dundas: Right.

Colleen Dowdall: And that this does not mean that the property is developable, only that you may divide the property?

Judith Dundas: Right.

Chair Curtiss: Thank you Colleen. Any other questions for Ms. Dundas? So, it is a public hearing. Does anyone else want to comment, or did you want to state something about your sons' letter? Or we could just enter it in the record.

Judith Dundas: You could just enter it in the record. This is a property that we've had since 1987 and that we've actually built our own house on.

Chair Curtiss: Okay. Thank you. Anyone else that wanted to make any comment? Seeing no one, we'll close the hearing. We'll enter the letter from Colin and Guthrie into the file.

Commissioner Carey moved that the Board of County Commissioners approve the request by Stephen and Judith Dundas 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. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Hearing: Petition to Alter County GLO Road – "Road to Jocko Valley and Military Road" (off Mullan Road between Josephine Avenue and Mullan Trail)

A petition has been filed with the Board of County Commissioners to alter and relocate that certain portion of a County road located within the northeast one-quarter of Section 14, Township 13 North, Range 20 West, P.M.M., County of Missoula, State of Montana. The subject portion of the County road is bounded on the north by the southerly right-of-way line of the former Chicago, Milwaukee and Saint Paul railway, and bounded on the south by the northerly line of the parcel conveyed to the Montana State Highway Commission described in Book 287 Micro, Page 76, Missoula County Records. The County road is more particularly described as follows:

General Land Office (GLO) roads as shown on the GLO plat for fractional Township 13 North, Range 20 West, P.M.M., surveyed by W. H. Baker in September, 1870. These GLO roads are described on said plat and the original surveyor's notes as "Road to Jocko Valley" and "Military Road." These roads are also shown in County Road Book 1.

The reasons for the request are as follows:

1. The roads are not locatable on the ground.
2. Relocating these roads, per the attached Exhibit "A," moves them to an existing private roadway easement and to a location in conformance with the Missoula County Grid Road Plan for the area.

The following landowners have been notified:

Larry T. Garrison	Kirk D. Mace	Justin K. Mantei Hattie J. Morris
MEI-296 LLC MEI-297 LLC	Leland F. Mentzer Donna Mentzer	Margaret Nesbitt James Nesbitt
Linda Scally	Martin C. Schmidt	Allen R. Bradstreet Yvonne Bradstreet
Kerry Wickman Arlene R. Wickman		

Kim Cox: I'm Kim Cox from the Clerk and Recorder's Office. It does contain the necessary signatures as required by law.

Chair Curtiss: Thank you Kim. This is a public hearing. Is there someone here who wanted to tell us why they'd like to have this road closed? Otherwise, we'll just have staff give the report. Abandoned I mean – no, altered!

Kristin Smith: Good afternoon, my name is Kristin Smith. I'm a planner at WGM Group and we would like the road to be altered to be in accordance with the County grid system. The plan for growth in that area aligns the road that is currently a private access road as well as GLO roads running along the property to connect north with future roads. The GLO roads exist somewhere on the property and it's a matter of course to clean those up as property moves forward for development.

Mike Sehestedt: Can I ask a couple questions while we still have her up there? Mike Sehestedt, for the record, Deputy County Attorney. We have a potential issue because part of this property has been annexed by the City, as of September 21st. Has a preliminary plat been filed as part of that annexation, or has the City approved a preliminary plat?

Kristin Smith: The City has approved the preliminary plat for Mentzer's Addition.

Mike Sehestedt: Okay. Does that preliminary plat show the road right-of-way in the relocated location?

Kristin Smith: Yes.

Mike Sehestedt: Okay. Bear in mind that we can't vacate a road within the City limits, but I believe the City Council, by annexing the area and placing it there, probably achieved the same effect. What I'm going to recommend the Commissioners do is after they've viewed it, if they deem it advisable, to approve the alteration with the caveat that it's only to the extent we have jurisdiction to do so within that portion that's been annexed to the City. The timing complicates matters.

Kristin Smith: It does. There's a condition on the plat that says that that right-of-way must be approved, you know, in other words, shown that there is existing right-of-way in that area, so it's kind of a Catch 22.

Mike Sehestedt: I'm not going to get into whether or not the City followed proper procedure for their vacation of this right-of-way, I'm just "caveat-ing" the issue that insofar as it's within the City limits, the County may not have jurisdiction anymore. Do you understand what I mean?

Kristin Smith: Yes.

Mike Sehestedt: Tempting as it would be to landlock City Hall by vacating the streets around it, we don't have that power.

Kristin Smith: Again, it's a matter of course, when property moves through subdivision, that those be cleaned up.

Mike Sehestedt: The City has this absolute instinctive need to annex anything that's going to be hooked to their sewer and we can just deal with any problems that instinctive reaction might cause.

Kristin Smith: Thank you.

Chair Curtiss: Okay. This is a public hearing. Is there anyone else who like to testify about this alteration?

Linda Scally: Linda Scally. I am the one that has the property on the corner of Mullan Road and what used to be – well, Mentzer Lane or whatever they're trying to call it, and Mr. Kirk Mace indicated in a letter that I received for the last hearing that he had talked with me and said that he had the right-of-way from my – off – that was the public road – or private road. I never have given that up and I don't intend to give it up. Plus, this GLO road that comes back in at the 1870 and I've had the property for 30 years, bought it in June of '75, all of a sudden it comes, appears and the title insurance, when that was all done, it went back to 1906. It's strange that how all this all of a sudden appears – you know, you go back 30 more years or more and bring something up that – so if I am – if this road goes supposedly through what I have been indicated, goes through my house, how would this individual on the other side – would go up Mentzer's – be able to do anything with his property.

Chair Curtiss: So, Ms. Scally, are you saying that where the GLO road is shown goes through the middle of your house?

Linda Scally: Yes it does, that's what I've seen from the – which at the time was never there, you know, that I was aware of.

Chair Curtiss: So, we'll have staff explain how some of that GLO road stuff came about.

Mike Sehestedt: Okay, these are the original alignments of the roads. Under State law, once a road is established as a public right-of-way, it remains a public right-of-way until vacated by the Board of County Commissioners after notice and a public hearing or by operation of law. In years past, people were very careless about doing the other half of relocating a road – which vacating the existing – the road right-of-way – they simply put a new road in and left the old road right-of-ways in place. It's an unfortunate fact, but we have these right-of-ways all over the County. The failure of title companies to review the road books in the past has cost them significant amounts of money subsequently – but the fact is, as a matter of law, the road right-of-way as shown by the Road Book exists unless it was vacated by the Commissioners. There's no record of this particular road ever having been vacated, so what happened to you is your title company just flat missed it and the fact they failed to find it doesn't mean it doesn't exist.

Linda Scally: Well why on any map, it only goes a short distance one side and a short distance the other side. Is it not – I mean, I've never seen a road built in the middle.

Mike Sehestedt: Parts of it have been vacated, I believe, in the past and other parts of it were replaced by Mullan Road. Without looking at the book, I can't give you the complete history. I'm guessing the GLO Military Road was the old, original alignment of Mullan Road.

Chair Curtiss: The Commissioners can only abandon or alter pieces that we're asked to do.

Mike Sehestedt: That we get asked to vacate. I suspect that we vacated a portion of this when Mullan Trail Subdivision came through, although I can't testify to that for sure. It looks like parts of it – the only parts of it that are in Mullan Trail are parts that run through the common areas, so it may not have been addressed there. Charlie, do you have a history of vacations out there?

Chuck Wright: I have a history of vacations, but they are down in the office, I didn't bring them up here.

Mike Sehestedt: Okay, but this section has not been vacated, is that correct?

Chuck Wright: No, it's not been vacated.

Chair Curtiss: So, I guess my question to you, Ms. Scally, is, will the proposed place that the road is going to be altered to, will that affect your house?

Linda Scally: Yeah! You're taking the GLO road – is that what you're talking about – or are you talking about –

Chair Curtiss: I mean where the dark line is on the exhibit.

Linda Scally: Well yeah, it will cause problems with my driveway and from my garage.

Chair Curtiss: Which one is your COS?

Mike Sehestedt: 546, I believe, right at Mullan Road. It appears that the right-of-way proposed for the relocation goes 30 feet inside the adjoining property – on COS 546, COS 911 and COS 541, and then across COS 1074. I see the people in the audience looking puzzled. It happens to be the description of the parcels as they go back from Mullan Road to the old Hiawatha right-of-way.

Chair Curtiss: So, to give you a little bit of comfort, the law requires that we have a hearing, like we're having today, then we recess the hearing and one Commissioner and someone from Public Works or the Surveyors Office have to actually go out on-site and see what the effect of the request will be. So we will come out to visit your site – it will be Commissioner Carey's turn to do this – before we make a decision, so that we actually see what it means on the ground.

Mike Sehestedt: The other issue will be if we're –

Chair Curtiss: This is the piece that's in the City.

Mike Sehestedt: Yeah, relocating part of it onto adjoining property, we need the consent of the property owners or we need to go through a whole process of viewers and assessment, so this may be more complicated than normal. And oddly enough, the part of it that's outside of the addition is not within the City limits, so we'd be re-establishing a road partially in County ground.

Linda Scally: In the future, what was that going to do to my property, with this GLO road through it.

Chuck Wright: My name is Chuck Wright, I'm from the Surveyor's Office, and what I want to tell you is, if you could come over here for just a second and I could show you this. This old road that shows the old GLO Military Road, that is the original road that was put in there in probably 1854 and then it was declared a public highway by the Territory in 1869. That shows up on the actual GLO plats. That's where it went, from periods in the past years, they've moved that road and now, that's where Mullan Road is, okay. This is the thing that has to happen, they have to change this road for the existing road that's there – there's an existing road there. This road will be altered and this road will be altered to go on that black line, so it won't affect your property.

Mike Sehestedt: Charlie, be clear that when it's altered, all of the portions that are shown crosshatched are vacated, they're gone.

Chuck Wright: Yes, they're actually moved, they're moved to the black area – this moves to here and this moves to there – so you don't have any more right-of-ways.

Linda Scally: So technically, you're giving up your private road that you had, is what you're saying.

Chuck Wright: All they're doing is moving those particular public roads to the existing road that was a private road, or whatever, which was surveyed – she just got through stating that they've done a subdivision there and it's been approved by the City and therefore, this road will be falling on top of that right-of-way that they show in the subdivision.

Linda Scally: Right, but the road that pre-existed was all private road.

Chuck Wright: It probably is. Is that still a private road? Now it's going to be public because of the alteration.

Woody Germany: Woody Germany with WGM Group. A couple things – and I think you explained it Charlie – the piece that may go through her house now will be vacated after this procedure is completed, for sure.

Chair Curtiss: That's the little crosshatched piece that goes sideways.

Woody Germany. The other owners are signatories on the petition of the other adjoining pieces of property, except Ms. Scally, she has not.

Mike Sehestedt: What is the existence of that 30 foot strip that is inside her property.

Woody Germany: It is a private access easement that shows on Certificate of Survey 546 as such. I have a deed, it's not the deed to Ms. Scally – I don't have that and I will get that – this is a deed, I assumed a previous owner, from the Klixbys to the Kirklees. You probably bought from Kirklee?

Linda Scally: Yes I did.

Woody Germany: That deed has an Attachment 'A' which has a deed restriction – and if I could read that – it says, "It is understood and agreed that the easement and roadway shall be dedicated to the County upon acceptance thereof." You can tell me what "acceptance thereof" means, but I took that to mean at which time it might be approved or acceptable.

Mike Sehestedt: With the alteration, that would be an acceptance by us of a public road in that location. Given the fact – hypothetically – that that exists in the chain of title, it's probably a sufficient basis for us to go ahead with this. The concern I had was in the absence of any other facts, we can't just take a public road off of one person's property and put it on another's. This, however, indicates that there is a commitment by prior title holders to dedicate the road, should we ask.

Woody Germany: Yes, that was part of our basis there, and I'm sorry I don't have her deed from the Kirklees to Ms. Scally, but that would need to be verified, I guess. I assume that goes with the land, so it should be applicable.

Mike Sehestedt: It would appear to. I'm not going to give an opinion on it at this very moment, but –

Chair Curtiss: Okay, did you have any more comments, Ms. Scally?

Linda Scally: So you're saying that they can just take my 30 feet, no matter whether I want it or not.

Mike Sehestedt: Basically, what the deed to your predecessors says is that they accepted the property subject to the condition that if the County were to accept this road, that 30 feet would be dedicated as a public road.

Linda Scally: Without reading that, which road are they talking about?

Mike Sehestedt: They're talking about the 30 foot easement, the existing private road easement along the west edge of your property. There's an existing private road there now, as I understand it.

Linda Scally: Yes there is.

Mike Sehestedt: There's a 30 foot right-of-way from your west boundary, all the way from south to north. That deed says that that easement is private but understood that it will be dedicated to the County should the County choose to accept it. That was put of record back in – the 8th of April, 1975. When you bought the property, you were on at least constructive notice because of that recording, that this 30 feet was subject to dedication as a public roadway, which changes the situation from my concern and here, where the right-of-way is to be relocated, was specifically reserved for that dedication in a deed to your predecessors. So I think that – it doesn't resolve the question of whether or not this is a good idea or whether or not the Commissioners would approve it, but it eliminates my legal concern that we were simply moving the road over to a place where we had no right to put it.

Linda Scally: Well, I mean – one, I have moved – I moved my garage back off the road. By the time that you put all this traffic through there, you'll never get out of the driveway. I mean, you've blocked it so that – 'cuz when Mentzer was up there, there would be times you couldn't get back out on the road, so I mean, with putting in sidewalks and boulevards and all the stuff that they're saying, now you have limited my access back into my place, my existing access that had been.

Mike Sehestedt: Again, that's something to be looked at on the ground and not resolved now and this is all subject to the Commissioner and Public Works Director's site inspection. I'm just concerned about the bare legalities of it and Woody has at least put a part of my concern to rest. I was not about to say it was okay without some legal authorization to put this road on your property, but that deed appears to authorize dedication of that strip as County road right-of-way and it was in your chain of title when you bought, so it's kind of like having a power line easement across your property, even if there isn't a power line there now, the power company could come in and put one in later. Does that make sense? The easement exist.

Linda Scally: At least with Mullan Road – when they widened Mullan Road, at least I got money for it, this is like you're taking it, something that they didn't – I might not get any money out of.

Mike Sehestedt: What I'm saying is you didn't own the right to say no to the dedication at the time you bought because your predecessors had basically deeded it away. Similarly, you didn't get money for what was originally

in Mullan Road, but we're not charging you for the right-of-way we're vacating either. We can sort all this out after the Commissioners have looked at it and decided whether or not it's a good idea.

Chair Curtiss: And just for the record, the petition does say – and Mr. Mace may have stated differently at some point as you said – but it says that the landowners that will be affected are you, Ms. Scally, Wickmans, Langley and Kirk Mace and it lists that Wickmans, Langley and Mace have consented, but it doesn't say you had consented, just so that's on the record. Does anyone else want to make comment on this alteration?

Harold Pickens: Good afternoon. My name is Harold Pickens. I live in the house Scally owns. What is the advantage of moving this GLO road off to the Mentzer property.

Chair Curtiss: Have you seen the map?

Harold Pickens: I have. Mr. Mace showed me a map.

Chair Curtiss: The existing GLO road is out there not being used, currently, as a road, so we could just abandon it. But because the County has a – I'm assuming that because the County has adopted a grid road system trying to establish some other arterial roads in the Mullan Road area, because right now, Mullan Road takes all of the pressure, we wanted some roads that connect over and give us some more ways to do this. They're taking the public right-of-way that exists but is not being used and putting it where it would serve the public so that not all the traffic has to travel on Mullan Road, but rather, you could run over to – I think they're calling it England Boulevard, is the proposed name – in the future and get out to Highway 10 without getting on Mullan Road. So it's just to – what we have to do in these hearings is decide what is of public benefit. That's why we go out and make sure we don't abandon a road that could serve some purpose in the future and decide if altering this road to a road that could be used would be better than leaving them where they are.

Harold Pickens: What about historical value? This road was the road that went up to the Jocko Valley.

Chair Curtiss: Right. It's just being altered over a little bit, the Jocko Road piece of it.

Harold Pickens: Yes, but you're still moving it. I mean, it's got to have some historical value to leave the road where it's at.

Mike Sehestedt: If we preserve all of the historical value and put the road where it's at, the bulldozers are going to come through the house to open the road up.

Harold Pickens: Well I doubt that that's going to happen.

Mike Sehestedt: Well, that's the reality. If we're going to preserve the road, we need to remove the house. You can't have it both ways.

Harold Pickens: So, what you're saying is the reason that you want to move the road off of the Mentzer property onto the private road is because Mr. Mace cannot build houses over there until the road is moved.

Mike Sehestedt: No, no. The other part of the road that gets moved is the part that runs right through the house you're renting from Ms. Scally.

Harold Pickens: Yes, but he's wanting to move the road from the Mentzer site over.

Mike Sehestedt: Yes, that true, he's also asking to vacate the road through Ms. Scally house. Have you seen what's proposed?

Harold Pickens: I've seen a map that Mr. Mace showed me.

Mike Sehestedt: Okay. Well, the benefit is this puts the road in a position where realistically we could use it, because you're right, it's not likely that we would open a road by bulldozing a house, although, legally, we could give notice that you're encroaching on a County right-of-way, you've got 5 days to fix it or we can. Like I say, that's not likely to happen, we've never done it that way before, but this eliminates the encroachments and, in fact, gives us a right-of-way going north from Mullan Road that has some possibility of actually being used as a road in the future, and we're putting it on a right-of-way that was specifically provided for back when the tracts were surveyed, the specific provision was made that it's a private road to become public upon acceptance by the

County. So, what we've got is an existing easement available for this purpose, to which we can relocate a County road so that that road right-of-way is in fact of value as a road right-of-way, and since it's indistinguishable at this point on the ground, the loss and historical value is probably pretty limited.

Harold Pickens: Well, we're losing a lot of our historical values around Missoula. I think we should start looking at some of these.

Chair Curtiss: Thank you. Anyone else that would like to comment on this petition to alter a County road?

Brenda Thomas: Brenda Thomas, and I haven't seen a map of all this, but we're the current owners of Hiawatha Road.

Mike Sehestedt: This just comes up to it and ends.

Chair Curtiss: If you like, Charlie can show you his map. It ends right at the Hiawatha Road.

Brenda Thomas: So it doesn't affect Hiawatha Road at all?

Chair Curtiss: No, it goes from Mullan to Hiawatha.

Brenda Thomas: So, I guess, eventually, sometime, it's going to be moving? I guess I don't understand why it's ending right there, what's the advantage of that.

Mike Sehestedt: The advantage of that is it's simply, these are the properties that have petitioned for it. I would suspect that at some point, northerly of the Hiawatha Road, the Old Milwaukee right-of-way, there'll be a petition to relocate the right-of-way so that it connects. Right now – given the history, Hiawatha Road and the Old Milwaukee right-of-way were subject to that GLO road because it was there first, and in a sense, because the Hiawatha and the Milwaukee came late, most of our crossing of what was the Northern Pacific, we're on the hook for, although where they ran that lower route on the Old Northern Pacific off through the Clark Fork Valley and then up to Paradise, we have some road right-of-ways, Mullan Road in particular, that take precedence and the railroad is obligated to deal with those crossing for us. But, anyhow, right now, there is an alignment that goes across Hiawatha, it looks like it goes right into some of the lots in 44 Ranch Estates, so I would suspect that at some point, you'll be approached, by petitioners working the other side, to relocate that crossing point, probably west a little bit so that road connects and goes on. That's an issue for another hearing, we not affecting your road.

Chair Curtiss: If you own the property that it goes through, they do have to notify you.

Brenda Thomas: Okay, thank you.

Chair Curtiss: Anyone else? This is a public hearing. As I stated earlier, we need to visit the site and Commissioner Carey and Chuck Wright will be the ones to visit. So I guess we can put this on next week's agenda. If we encounter other problems, we could postpone then.

Mike Sehestedt: Basically, what you need to do is figure out when Commissioner Carey and a representative of the Public Works, probably Charlie I guess, can get out and look at it. Then they'll come back with a report, next week, if that's when you schedule it and you could take action then, or if you have other issues, it will get continued until those are resolved. My recommendation would be that you recess the hearing, because when they come back and report, other people may have something to say in response to that report.

Chair Curtiss: Right. Okay, so is there anyone else that wants to speak before I recess the hearing? We'll continue it next week. Seeing no one come to the mic, we'll recess the hearing on the petition to alter and do the site visit and continue the hearing next week. Is there any other business to come before the Commission? Seeing none, we're in recess.

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