

PUBLIC MEETING – November 23, 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 and Deputy County Attorney Colleen Dowdall.

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 list in the amount of \$456,684.87. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Bid Award: Six (6) Police Package Patrol Vehicles (Sheriff's Department)

Willis Hintz, Sheriff's Department, presented the staff report.

This is a request to approve a bid for the purchase of six Police Package Patrol Vehicles. The Sheriff's Department requested copies of the State bid for police vehicles with rear wheel drive. Ford and Dodge were identified. The bid for the Ford Police cars was about \$1,000 less than the Dodge Chargers. However, because of recent transmission repairs to the Fords at approximately \$2,000 a car, it was determined that it would be cheaper to purchase the Dodge Chargers.

Five of the vehicles will have cages at a cost of \$24,433 each, for a total of \$122,165. One vehicle will be without a cage at a cost of \$23,268. The total cost for the purchase of six Police Package Patrol Vehicles is \$145,433 and will come from the Sheriff's Office CIP Budget.

Willis Hintz: Willis Hintz with the Sheriff's Department. The Sheriff's Department is looking for new police vehicles. Montana Highway Patrol submitted the specifications, which we follow, to the State for bids. Two companies met our specifications, Dodge and Ford. Ford actually came in a little bit cheaper, but they've been having a lot of transmission problems and because of their repair and maintenance, we decided to be more frugal, ought to try Dodge to see if that would be our best buy, so, approval for six Dodges.

Chair Curtiss: Okay, so, do we have some Ford's right now?

Willis Hintz: Our current fleet is Ford Crown Vic's, yes.

Chair Curtiss: Have we had trouble with their transmissions?

Willis Hintz: Yes.

Chair Curtiss: These are Dodge Chargers, like what the kids used to drive?

Willis Hintz: Well, actually, the commercial is a little kid on a bicycle – never mind!!

Commissioner Evans: Colleen, I have a question, I think the law changed in regards to bidding. Correct me if I'm wrong, because I could be. It doesn't any longer say "and best." It's the lowest bid.

Colleen Dowdall: I am not aware of that change. Would it have been from the 2005 Legislature?

Commissioner Evans: I understand it's recent and I don't remember who told me that, but –

Colleen Dowdall: Is this the lowest bid?

Willis Hintz: If you take in the price of replacing transmissions, it is the lowest bid.

Commissioner Evans: Well, that's sort of a cost benefit analysis cost. I think I'll make a motion to approve this contingent upon approval by the County Attorney that it meets the law.

Willis Hintz: Okay. I know on our Federal stuff, it does.

Commissioner Evans: Well, we used to be able to say "lowest and best" but if they took out "and best," that could give us a problem.

Willis Hintz: Okay.

Commissioner Evans moved that the Board of County Commissioners approve awarding the bid for the purchase of six (6) Police Package Patrol Vehicles (Dodge Chargers) for a total cost of \$145,433, contingent upon approval of the County Attorney's Office. Commissioner Carey seconded the motion.

Chair Curtiss: Is there anyone from the public who wants to make comment on this before we vote?

The motion carried on a vote of 3-0.

Hearing (Certificate of Survey): Gary Campbell Family Transfer and Gordon Campbell Family Transfer

Colleen Dowdall stated these are essentially the same so the hearings can be combined. Action and notification will require two separate letters, which is why there are two separate Requests for Commission Action.

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract 2 of COS 5700, located in portions of the east one-half of the west one-half and the west one-half of the east one-half of Section 33, Township 11 North, Range 19 West.

Gary F. Campbell has submitted a request to create one parcel using the family transfer exemption to the Montanan Subdivision and Platting Act. The current parcel is approximately 100 acres in size located in the southern part of Missoula County. Gary proposes to create one approximately 20 acre parcel for transfer to his wife, Vickie F. Campbell, for residential purposes and keep the remaining approximately 80 acre parcel for residential purposes as well.

The history of the parcel is as follows: COS 5547 was filed in May, 2004, with the purpose of relocating common boundary lines and retracting the amended boundaries of existing tracts. The perimeter contained 637.83 acres, more or less. The owners, MSB Investments, filed a Warranty Deed in May, 2004, deeding Tract 2 of COS 5547 to Gary and Gordon Campbell. A Quit Claim Deed was filed in July, 2004, deeding Tract 2 to Gary Campbell. COS 5566 was filed in June, 2004, for the purpose of creating parcels of land greater than 160 acres. The owners, MSB Investments, filed a Warranty Deed in July, 2004, deeding Tract B of COS 5566 to Gordon Campbell. COS 5700 was filed in May, 2005, with the purpose of retracing the amended boundaries of existing tracts which consisted of Tract 2 of COS 5547 and Tract B of COS 5566. Gordon Campbell filed a Quit Claim Deed in May, 2005, deeding Portion A of COS 5700 to Gary Campbell.

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

COS 5700 05/31/2005 Boundary Relocation and Retracement NE SE SW NW Sec. 33, T11N, R19W

Additionally, this is also a consideration of a request to create a family transfer parcel for that parcel described as Tract 1 of COS 5700, located in portions of the east one-half of the west one-half and the west one-half of the east one-half of Section 33, Township 11 North, Range 19 West.

Gordon C. Campbell 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 100 acres in size located in the southern part of Missoula County. Gordon proposes to create one approximately 20 acre parcel for transfer to his wife, Deborah Campbell, for residential purposes and keep the remaining approximately 80 acre parcel for residential purposes as well.

The history of the parcel is as follows: COS 5547 was filed in May, 2004, with the purpose of relocating common boundary lines and retracing the amended boundaries of existing tracts. The perimeter contained 637.83 acres, more or less. The owners, MSB Investments, filed a Warranty Deed in May, 2004, deeding Tract 2 of COS 5547

to Gary and Gordon Campbell. A Quit Claim Deed was filed in July, 2004, deeding Tract 2 to Gary Campbell. COS 5566 was filed in June, 2004, for the purpose of creating parcels of land greater than 160 acres. The owners, MSB Investments, filed a Warranty Deed in July, 2004, deeding Tract B of COS 5566 to Gordon Campbell. COS 5700 was filed in May, 2005, with the purpose of retracing the amended boundaries of existing tracts which consisted of Tract 2 of COS 5547 and Tract B of COS 5566. Gary Campbell filed a Quit Claim Deed in May, 2005, deeding Portion B of COS 5700 to Gordon Campbell.

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

COS 1946	05/15/1979	Occasional Sale and Remainder	SE Sec. 12, T13, R18
COS 4489	06/07/1995	Boundary Relocation	SE Sec. 12, T13, R18
COS 5700	05/31/2005	Boundary Relocation and Retracement	NE SE SW NW Sec. 33, T11N, R19W

Gordon Sorenson: My name is Gordon Sorenson, Engineer/Surveyor working with the Campbell brothers. When they purchased this ground from MSB, the Snider brothers, Ellen Bradley and Eddie McCatten is who they purchased it from. They purchased a 160 and a 40 and they purchased in one's name and one in the other. But, they purchased it with the idea that they each were going to own 100 acres. So, then that's where the boundary relocation came to give them each 100 acres, so Gordon owns one side of this thing and Gary owns the other, whichever way it is, I can't tell you east or west and it doesn't matter to what we're doing here today. So that it and now we're down to this and now they want to give their wives each a 20 acre parcel. They both have children; they're not going into the family exemption with the children at all, they just want to set 20 acres aside for their wives for how they're planning their estates or futures or whatever you want to call it, and then they're going to go ahead with their other acres and, I believe, sometime in the future they're going to come in and go through subdivision review on that and break those down, but they want these 20 acres set aside and held separately and kept out of the other mix.

Commissioner Evans: They've never given their wives any land besides this?

Gordon Sorenson: No, not that I know of anyway.

Colleen Dowdall: It didn't show up on the report.

Gordon Sorenson: No, they haven't. They're both long time Missoula people. I think they've been here most of their lives, or all of their lives.

Commissioner Evans: The reason I ask the question is because they have the legal right to give a piece of land to their wife.

Gordon Sorenson: Gordon is a CPA here in town and Gary owns a car business, Friendly Auto. That's the history in a nutshell, that's what they're trying to do.

Chair Curtiss: Thank you Gordon. So, Colleen, since we need to ask questions on the record, should we do them individually?

Colleen Dowdall: Yes, and if you go to the page in each packet called "Proposed Tracts," it gives a sense of what they are doing. The first hearing is for Gary, would you please come to the microphone. We ask a series of questions to determine your intent and they're kind of nosey questions, but that is the only way the Commissioners can attempt to figure out what your intent is. I think from this, the conclusion is that you've owned the property since May, 2005.

Gary Campbell: Earlier than that.

Colleen Dowdall: Okay, so you've owned it for a couple of years together and then you each have your own parcels at this point. Okay. When you transferred it into each of your own names, did you intend at that point to divide it, divide off this 20 acre tract?

Gary Campbell: I'm not sure I follow.

Colleen Dowdall: At what point did you decide to use the exemption process?

Gary Campbell: Well, we talked about it a little bit, about maybe breaking off the top two pieces, which is the highest piece of ground there, we figured that would be the best view of the whole 200 acres, is the reason we picked them and they're at the end of where a road will be. We thought it would be the logical two to break off to keep for ourselves.

Colleen Dowdall: So you do intent to keep for yourselves?

Gary Campbell: Yes.

Colleen Dowdall: But it will be in your wife's name?

Gary Campbell: Correct.

Colleen Dowdall: Will you be developing that property, then, for your own home?

Gary Campbell: I still have to run a business here for at least a couple more years, so I wouldn't want to do any commuting, but if my wife were agreeable, I'd entertain that.

Colleen Dowdall: And then you're intending to take the other 80 acres through subdivision review, is that what Gordon said?

Gary Campbell: Correct.

Colleen Dowdall: So you're wife won't be residing on the property separately from you?

Gary Campbell: No, she won't.

Colleen Dowdall: Does she live in Missoula now?

Gary Campbell: Yes, we both live in Missoula.

Colleen Dowdall: Do you have a separate business where you build houses or develop property?

Gary Campbell: I own half of a car lot on West Broadway called Friendly Auto and Friendly Mini Storage.

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

Gary Campbell: No, I haven't.

Colleen Dowdall: Is this an attempt to evade subdivision review?

Gary Campbell: No.

Colleen Dowdall: Do you understand that evasion of the Subdivision and Platting Act is a misdemeanor?

Gary Campbell: Yes I do.

Colleen Dowdall: You understand this request is not being reviewed for adequate access in all weather for all vehicles, including emergency access?

Gary Campbell: Right.

Colleen Dowdall: And that we do not – approval of this does not mean that it has been approved for floodplain or septic systems. I take it property isn't zoned? There's no zoning on it?

Gary Campbell: No.

Colleen Dowdall: That concludes that one.

Chair Curtiss: Okay. Do the Commissioners have questions for Mr. Campbell. Thank you. So, Colleen, I just have one question for you. Because they have talked about doing subdivision, but this just allows them to keep a

piece of property, so it wouldn't be considered as part of the subdivision – does that put any question into the intent of the law?

Colleen Dowdall: Again, that's something, as the finder of the facts, you have to determine whether that makes you uncomfortable. That question is usually designed – are you going to develop the property – to illicit information about whether the parcels that have been created by exemption are going to be developed, thereby having gotten around the Subdivision and Platting Act. In this case, they intend to use the Subdivision and Platting Act to develop the property, so it's –

Commissioner Evans: And keep the piece of property they're doing today for their own use.

Colleen Dowdall: Right, so it is some comfort that they intend to use the Subdivision and Platting Act.

Commissioner Evans: The reason we ask these intrusive questions is the law tells us we have to find out if you're trying to evade the Subdivision Act, which isn't the best part of our job.

Chair Curtiss: This is a public hearing, I'll officially open the hearing and see if anyone else would like to comment? If there's no one that wants to comment, I'll close the hearing. This is on the Gary Campbell Family Transfer.

Commissioner Evans: Can we do both of them at once?

Colleen Dowdall: Why don't you do your motion on this one and then we'll do the other one.

Commissioner Evans moved that the Board of County Commissioners approve the request by Gary F. Campbell 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.

Chair Curtiss: Okay, and you'll get a letter in the near future. I'll open the hearing for Gordon Campbell and we'll consider the staff report as being done and ask Mr. Gordon Campbell to come and answer questions.

Colleen Dowdall: You have the advantage of hearing the questions ahead of time. So, I think we've covered – do you know how long you've owned the property – a couple of years.

Gordon Campbell: Yes, approximately two years.

Colleen Dowdall: And did you buy the property with the intent of dividing it in this way?

Gordon Campbell: No.

Colleen Dowdall: Do you – I didn't ask your brother this, so this one will be a surprise – do you or your transferees (your wife) intend to transfer the property within the next couple of years?

Gordon Campbell: No.

Colleen Dowdall: Will the property be developed?

Gordon Campbell: No. We're going to hold it in our own names.

Colleen Dowdall: The 20 acres?

Gordon Campbell: Yes.

Colleen Dowdall: And then the 80 acres you're intending to bring through subdivision review?

Gordon Campbell: That's correct.

Colleen Dowdall: So, will the recipient of the property be residing on the property?

Gordon Campbell: Not initially.

Colleen Dowdall: Okay, and she now lives where?

Gordon Campbell: We live in Bonner.

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

Gordon Campbell: No.

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

Gordon Campbell: No, I'm a CPA.

Colleen Dowdall: Are you attempting to evade subdivision review?

Gordon Campbell: No.

Colleen Dowdall: Do you understand evasion of the Subdivision and Platting Act could be a misdemeanor?

Gordon Campbell: Yes I do.

Colleen Dowdall: And you understand that this request is not being reviewed for adequate access in all weather, for all vehicles, including emergency access?

Gordon Campbell: Yes, I understand that.

Colleen Dowdall: And that this approval does not mean that the property is approved for zoning compliance, floodplain or septic systems?

Gordon Campbell: Yep, I understand that.

Chair Curtiss: Just one question that I didn't ask your brother. There are no homes on any of these lots at this time?

Gordon Campbell: No, there are not, no.

Chair Curtiss: This is a public hearing. I'll open it for comment from other people if they'd like to make comment? Seeing no one, I'll close the hearing.

Commissioner Carey moved that the Board of County Commissioners approve the request by Gordon C. Campbell 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.

Chair Curtiss: You'll receive a letter also, and since the next thing on our agenda is in regard to what you folks just went through, you might want to stay for this hearing.

Hearing: Proposed Fees for Review of Exemptions to the Subdivision and Platting Act

Chair Curtiss: Today we have a hearing on proposed fees for review of exemptions. As you know, you probably didn't pay a fee, but it does take staff time, so we've considered this. So, I'll open the hearing and ask Colleen to give us a staff report on this.

Colleen Dowdall: In the 2003 Legislature, the Subdivision and Platting Act was amended to authorize local governments to charge a review fee for exemptions. It had not been expressly addressed and the Attorney General had issued an opinion many years ago stating that the Commissioners did not have the authority to charge a fee for review of exemptions, but only for review of subdivision, so the Legislature changed the law in 2003, setting a maximum fee of \$200. My office does the work for all exemptions and we, Karol Jedrykowski and I, have met with individuals from the community that bring us requests for exemptions, the surveyors and engineering firms, and discussed the possibility of having a tiered fee in which we would charge less for boundary relocations, but in looking at the amount of time that we spend, we concluded that it probably costs about \$200 of

our time, or nearly \$200, to do a boundary relocation and they take the least amount of time of anything that we do. The development engineers and surveyors suggested that one flat fee would be easier for them. Some of them have already sent in fees, thinking we've adopted fees, so they'll send their exemption requests accompanied by check, and it has killed Karol to send it back on each occasion. This was noticed for Public Hearing in the Missoulian and this is the time set for that hearing. We have suggested that there be an effective date of January 1, 2006, in order for us to get the word out that the fee has been approved.

Commissioner Evans: If we passed this, would it have offended you to pay \$200 to get this done, each of you? And I want your honest truth.

Gary Campbell: It wouldn't have bothered me and the reason is, I've been in business for a long time and you don't get anything for nothing, you know what I mean. They should be getting something. I don't know what the time required to go through all this stuff, but to do it for free is not what's normal in the rest of the country, I wouldn't think.

Commissioner Evans: Well, we need somebody on the record before we adopt these, you happened to be the ones we picked.

Chair Curtiss: Thank you. So, Colleen, just to clarify, this applies then to family transfers, boundary relocations, mortgage exemptions.

Colleen Dowdall: I think those are all the ones that are left. This is what was submitted by the applicant for the boundary relocation. This is the research that Karol did in an attempt to figure out the history of the parcel, so that we can ensure that this isn't been a part of some attempt to evade subdivision review, and this was a relatively easy one, it wasn't one of the places where we've had a whole bunch of exemptions, like the Meadows of Baron O'Keefe and those locations. It gives you an example of the time that she puts in trying to understand these and make a record.

Chair Curtiss: Right, for us to base our decision.

Commissioner Carey: So the money will be collected by the County Attorney's Office and deposited into an account in the County Attorney's Office.

Colleen Dowdall: Yes, we're calling it the Colleen and Karol travel fund!! It's a joke!

Chair Curtiss: I think it goes to the general fund, doesn't it?

Colleen Dowdall: I have no idea. I know part of what has delayed this is some question of whether it goes to the general fund or whether it goes to the County Attorney's Office to defray some of our costs. I had originally proposed the fee to offset the cost of having a couple of subscriptions to the County search program, the CRIS program, and we have been able to get a couple of those in anticipation of these fees, but Ann Mary and Fred are the best people to answer the question about where the money will go.

Chair Curtiss: So it will go in the County coffers somewhere. Anyone else that wants to make a comment. Seeing no one, we'll close the hearing.

Commissioner Evans moved that the Board of County Commissioners adopt a resolution setting fees for exemptions from the Subdivision and Platting Act at \$200 to become effective on January 1, 2006. 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 1:55 p.m.