

Public Meeting – August 23, 2006 Commissioner Carey called the meeting to order at 1:30 p.m. Also present were Commissioner Evans, Chief Deputy County Attorney Mike Sehestedt and Director of Public Works Greg Robertson. Commissioner Curtiss had a family emergency.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT - none

ROUTINE ADMINISTRATIVE ACTIONS

Commissioner Evans moved to approve the Weekly Claims Lists in the amount of \$555,288.83. Commissioner Carey seconded. The motion carried on a vote of 2-0.

HEARINGS

Resolution to re-create RSID 8482 (Paving Tookie Trek Area)

Commissioner Carey opened the hearing

Greg Robertson: Before you is a resolution to create RSID 8482. You will recall from a previous meeting that we ended up having to reject bids because of increased materials costs that we in excess of what the RSID could handle. In working with the president of the Homeowners Association, the decision was mutually made to proceed with re-creation of the district and proceeding forward. So last month, you signed a notice of intent to create the district to pave Tookie Trek and related roadways and notice was provided to landowners by my office as well as a publication in the newspaper as required by law. We received protests from several of the landowners and I've summarized for you the number of protests. There were a total of 69 parcels – the number of protests were 23 ½ which equates to 34.1% protest which is not adequate to defeat the district. Regardless, there are waivers that currently exist on the area that is covered by the district as a result of a lawsuit filed many years ago by the County against the developers of the Meadows West area. However, I thought it would be informational for you to at least see what the protest was. Our recommendation is to create the district as presented.

Commissioner Carey: Thank you Greg.

Mike Sehestedt: Let me supplement a little and make sure we're clear and I'm clear. There are 69 parcels or 69 owners?

Greg Robertson: Correct.

Mike Sehestedt: Which is it? 69 parcels?

Greg Robertson: Yes, 69...the method of assessment is equal assessments. The number of parcels in the district was 69 and of that 23 ½ of those parcels protested.

Mike Sehestedt: I've just been looking at the protests and I notice they're almost all, I think in fact all, are single signature and I would note for the Commissioners protest is by the owners of property to be assessed. Where you have two owners on a single tract, typical husband and wife joint tenancy that's two owners, if one of them signs it's only a 50% protest it's not sufficient to protest the entire tract. You may recall that from our discussions involving the Mullan Road protest. We'll count single signatures, but if you're going to count single signatures then you've also got to count total number of owners and that has been the way we've gone.

Glen Sparks: I live on Fire Bucket Loop. I think the number of protests there is off. Does that include the ones that I brought in yesterday?

Greg Robertson: Every one of them was counted, correct.

Glen Sparks: Okay, cause there's not just the sheet of paper...some of those lot owners own multiple lots so there's...

Greg Robertson: That's correct, they were counted.

Glen Sparks: ...I had about 60% on that, so I don't know how you come up with 30%.

Greg Robertson: The way the County Attorney asked that I count the protest was to look at the ownership of the property. If it was in joint tenancy a full protest needed both signatures of the property owners.

Glen Sparks: Okay.

Greg Robertson: If one signed, they were given essentially half of a protest.

Glen Sparks: Well, I can guarantee we can get the other half on those. It seems like we're trying to push this thing through regardless of the feelings of the property owners are here. The feeling of the property owners, the majority of us feel there are fundamental problems with this particular SID and the way it was put together and the way it was formed and the way that road were cherry picked. There wasn't a 60% petition to initiate the process that's required by County standards. The whole thing from the beginning has been skewed and I'm having a hard time understanding how this is being allowed to go forward now. At the last hearing I made some of these same objections and at that time Commissioners Evans, you said to me, there wasn't anything we could do at that time because the SID had already been created. Well there is something we can do about it now, we have protests to this. We don't want this done this way. We're not necessarily protesting paving the roads. We're protesting this RSID and they was it was formed and the way that it's extraordinarily unfair to a majority of the landowners. Those of us on Fire Bucket Loop are paying for roads that don't benefit us. We'll be asked to pay for Fire Bucket Loop in the future, on our own without any help from the people who live on the roads that we're paying for now. I don't think that's right to continue. I don't think it's right that the roads have been picked and chosen. There's road included in this that aren't original roads of this subdivision – that were put in by family transfer subdivision of original lots. There are only two roads that are not original roads on this SID and that were on any of the three. I understand that George Cates is done by itself, but there are two roads that were included in any of the association that weren't original roads and John Mazola, the man who got this whole thing going two years ago, lives on those roads. That is curious to me how that happened. The Fire Bucket Loop is an original road and it's only being partially done, it stops at O'Keefe Creek. The top part of that road is flat with a 60 foot easement just like every other road and it's not being included. It stopped at O'Keefe Creek to benefit those people who drive up Tookie Trek then Fire Bucket Loop to get onto O'Keefe Creek to go home. Half the people who live on O'Keefe Creek drive that way home. It wasn't put together to benefit all of us as a whole and we would like to have the chance for all of us to have input instead of one man looking out for himself...

Commissioner Evans: Could you tell me, does Fire Bucket Loop, is that the last road we went on, Greg?

Greg Robertson: There are two segments of Fire Bucket Loop. The one that you and I went on was essentially the unbuildable part. It would be very difficult to do. The other piece was a short segment of about 400 – 600 feet, I can't remember the length but that's about right, over where O'Keefe Creek joins in with Fire Bucket Loop. The portion of Fire Bucket Loop we're building is the segment that connects O'Keefe Creek and Tookie Trek and there is a little spur that takes off of there that Mr. Sparks is referring to that was not included that is flat. At the time when we were creating the district, I had worked with the Homeowners Association and I had met with several of the landowners during that period of time and John Mazola who was the president of the association at the time and we mutually agreed on which roads we though could be built on. So those were the ones that were included, it wasn't, or at least I detected no note of impropriety on the part of Mr. Mazola - I think he was, as well as the engineer that he has secured on which roads were to be included and which ones weren't. We looked at the ones that we think could physically be built that didn't have significant encroachments and included those. That was our basis.

Commissioner Evans: What assessment method were you using? Square footage?

Greg Robertson: The method of assessment that we're using is equal assessments. We didn't use square footage. In talking to our bond council, Mae Nan Ellingson, with Dorsey and Whitney she felt that this method was the most equitable amongst the ones that were available to us.

Commissioner Carey: Mr. Sparks are you saying that you want in to this RSID? But Greg you're saying that they live on a portion of the road that isn't buildable?

Greg Robertson: He is included in a district, but his particular segment of road, that's the one we drove on, was not included for paving because it was physically unbuildable.

Glen Sparks: But there are other roads, too, that we're included.

Greg Robertson: Yes there were. That is correct.

Glen Sparks: That are flat roads with plenty of easement that weren't included.

Commissioner Carey: And why was that, Greg?

Greg Robertson: There's only one that I'm aware of and that's the short spur. My recollection of the time, and this was several years ago, is that there weren't any homes on there to warrant a road.

Glen Sparks: But not only in this district, though, in the other districts as well. In all three of the original RSID's Jars Gang and Peaks Row are the only two non-original roads included. And the president of the Homeowners Association lives on that road. Somebody should have said at that point this is not an original road, this road wasn't party to the lawsuit – which doesn't say that the roads HAVE to be paved – somebody should have said something at that point that those shouldn't have been included. But they made it in. To me, the fair way to do this would be to break this district down even further so that those of us on Fire Bucket Loop are paying for the part of Tookie Trek that we use and then Fire Bucket Loop be a separate district. Then create another district from the intersection of Tookie Trek and Fire Bucket Loop to the north that would be a district including the folks on Tookie Trek above that point. That's 70% of Tookie Trek that we don't use, we never use it, and it doesn't benefit me. And I don't drive on Jars Gang and Peaks Row, those don't benefit me either.

Commissioner Evans: It seems to me a little bit, Greg, we've had the discussion and maybe we should do that after everyone testifies. So, go ahead with the testimony and I'll ask my questions later.

Glen Sparks: I'm curious about the petition process - about the County's requirement for a 60% petition to initiate the RSID process and the fact that wasn't done. There's...I've been told that it didn't have to be done because of the lawsuit. The lawsuit – I read the lawsuit, I have it right here, the stipulation for judgment – and it doesn't say the roads have to be paved. Also, the covenants don't say the roads have to be paved. They say that the association shall begin taking the steps necessary to form and RSID for paving of the roads and the first step in forming the SID is the petition process that was skipped. I don't understand that.

Commissioner Carey: Can you speak to that, Mike?

Mike Sehestedt: The understanding always was that when 52% of the original tracts were built or developed, was basically the test that an SID would be formed to do the paving. The petition requirement is a County policy – a requirement that we not only waive fairly regularly, it's one that we sometimes initiated SID's based solely on waivers on our own motion. Here the lawsuit created an affirmative duty on the part of the Homeowners Association to take action by initiating the RSID process. They began that process. I recall one of the roads was paved when the people said they'd do it privately and did it. We've had the other two segments pending for sometime. The SID was created due to the spike in oil prices, the engineers' estimates and lapse in time proved to be inadequate to pay for it. The Homeowners Association, under new leadership I believe, went back and came back to us with the proposal you have in front of you now to go forward.

Glen Sparks: He didn't speak for all of us, either. He lives on O'Keefe Creek and drives up Tookie Trek and Fire Bucket Loop to get home. That's why he wants this one done. He doesn't speak for us on Fire Bucket Loop. I've got those petitions with the majority of us. No matter how you count the signatures, those owners – if you want me to get those signatures of the husband and wife who own the property I can certainly get those.

Mike Sehestedt: The fact, some of this is kind of – well you're caught mediating an internal dispute within the Homeowners Association and I don't know what to advise you on that. We've even initiated on our own motion RSID's where we've has sufficient waivers to go ahead and create the district. I'm trying to think of an example and I can't, but I know we have. It's a problem and I guess I urge you to listen to the testimony

and decide what you want to do. The protest is the owners of property bearing 50% or more of the total assessment. Two ways to deal with jointly owned property – the first is to require both signatures be on a protest. If Jim and Mary Jo own Tract A, we can either say if they're going to protest it has to have both Jim and Mary Jo's signature on it or it doesn't count. We can say each of them is the owner of an undivided one half, so we're basically doing a count that way. I think that's what Greg did in this case.

Greg Robertson: That's correct.

Mike Sehestedt: I don't have any reason to doubt that other signatures would be available, I'm just saying what we have is this. We're counting them on the liberal theory for the usual counting of protests which is what we always do, but...

Glen Sparks: So, by this method and the way that this is happening right now, you're telling me that we don't have to have the petition signed by 60%, you're saying that we don't have to pave all of the roads regardless of the lawsuit – because they're not all being paved, you're saying that anybody can come forward and put any road into an RSID because now we're 52%. So that means I could come forward here and say that I want the rest of Fire Bucket Loop done and I want everybody assessed for it. We could put it together and nobody can protest it and nobody has a thing to say about it! It's not right.

Mike Sehestedt: That's not what I'm saying. The selection of the roads to be paved is by the Homeowners Association, or initiated by the Homeowners Association pursuant to settlement of the lawsuit. The assessment is spread based on benefit. You may dispute that, but you do your property I guess, benefits from it. Whether that's a precise balancing of benefit, I don't know, but you'd have a great deal of difficulty establishing a lot of benefit for anyone else using your example of the remaining portions of Fire Bucket Loop. The assessments need to be based on benefit.

Glen Sparks: Jar Gang and Peaks Row and Tookie Trek, north of Fire Bucket Loop, don't benefit me anymore than what Fire Bucket Loop would benefit someone on Peaks Row. So how come it...those of us on Fire Bucket Loop are getting a raw deal here. That's what's happening because those people aren't going to be asked to pay – I'm not asking to not do an SID. I'm not asking to not pave the roads. I'm asking for a chance for the majority of us to be able to have a voice in this and how it's set up because it was done by a few and not by the majority and it's not what the majority wants. The majority of us want the roads to be paved and that's not in dispute. But, the majority of us think that there's something wrong with this SID. It's unfair, steps have been skipped, wording in the law and the lawsuit and the covenants have been distorted to try and push this through. The lawsuit doesn't say the roads have to be paved. The covenants don't say the roads have to be paved.

Mike Sehestedt: Some of this is a question – I don't know what the total number of people out there is – but we wind up dealing with the Homeowners Association which is nominally at least elected by the Homeowners Association and one would think speaks for the majority of them. That's kind of the institutional position. You're here saying they're not speaking of the majority of you.

Glen Sparks: The problem is that the president of the Homeowners Association represents the whole Homeowners Association. The president of the Homeowners Association doesn't live in all three of these districts. If the president of the Homeowners Association was representing a single district that encompassed everything and everybody it would be a different story, but we've split the Homeowners Association up into three districts now. You can't have a Homeowners Association president who can – he lives on O'Keefe Creek, how can he speak for me? John Mazola lives on Peaks Row how can he speak for me? He doesn't live on Fire Bucket Loop. He can't represent all of us.

Commissioner Evans: Mr. Sparks could I ask you to let the other testify and then let me ask some questions and if you want to comment again, you can do that. Would that be okay?

Glen Sparks: Absolutely. Sure.

Commissioner Evans: Thank you.

Tom Devlin: I live on Fire Bucket Loop. I went around and talked to people and got signatures on these petition papers and there's like 38 people on Fire Bucket Loop and we've got signatures that wanted this thing changed from all but I think three of people on Fire Bucket Loop. Most of the people I talked to were man and wife when I talked to them, if there was a couple, and it was mutually agreed. We didn't know we had to have both signatures. But when you've got 35 people on Tookie Trek and 35 or 36 people on Fire Bucket Loop and we've got Tookie Trek controlling our roads, it's not right.

Commissioner Evans: Thank you Mr. Devlin.

Commissioner Carey: So what would you like to see happen?

Tom Devlin: Split it up so we can take care of our own.

Debbie Lester: I am at the end of Tookie Trek and two years ago when we had this public meeting I believe I spoke about the possible appearance of inequity in this. I do understand Mr. Sparks as he's speaking now because there are distinct roads and I know you've all driven the roads. Definitely Tookie Trek benefits tremendously from that and Mr. Sparks is true in saying that most people want the roads paved. I think as I said two years ago, all we're looking for is a little more equity, financial equity, and a more equitable way to split it up. I know we look at the original homeowners and the original tracts that were sold and currently owned and if there were a way to bring more people into the process to spread the cost – we mentioned the time elapse – certainly oil prices have something to do with it. But the cost of financing now with the cost of interest rates going up certainly is another piece of it, so that the delay has certainly cost us too. Two years ago that wasn't our intention to delay to the point where it would cost us more. We were only looking for a more equitable way to do the roads. County standards in our rural area are burdensome in my opinion, but I don't know that that opinion is shared by all. I do see the inequity and I understand what Mr. Sparks is saying.

Commissioner Carey: So you're not supporting the creation of this RSID, correct?

Debbie Lester: I'm very mixed because on the one hand, most people would like that paved road. The dust abatement I think is critical. There's a lot of livestock out there, there's a lot horse owners out there and it's not good for the animals to have that kind of dust blowing. But \$16,000 per homeowner...that's an awful lot of money. I don't know of any other RSID that has been imposed in small areas that impose that kind of financial burden. Maybe you could speak to that, if this is a normal process, and that you normally add this kind of financed project to homeowners.

Commissioner Carey: Mr. Sparks do you have anything else to comment on?

Glen Sparks: I think I've said my peace and made my point. At this point I believe it's in your hands but I'm happy to answer any questions if you have any.

Commissioner Evans: I have some questions for Greg and Michael. I understand, Michael that the health board wants paving on all new roads or in the air stagnation zone, etc., to protect the public safety and health. Is there anything that requires that it be asphalt paving? If Greg chose to change to use magnesium chloride, which I believe he's had a fairly good experience with, is there any law that says that would not suffice?

Mike Sehestedt: I'd have to take a look specifically at the health regs, but mag chloride is not a one time thing, is it?

Greg Robertson: I've been advised by Marnie McClain that the Health Department regulations require paving, period.

Mike Sehestedt: That's what I thought, I wasn't going to say that without looking, but the other thing is mag chloride is ongoing and it does nothing to address road surface conditions. (inaudible) I would have to question are the quantities for Peaks Row and Jars Gang separately identified in the bidding documents?

Greg Robertson: No, the way we structured it it's based on the two districts, separate schedules. We bid it as one contract for both SID's and they are segregated out. They're not broken out by a particular road segment, no.

Mike Sehestedt: I'd expect we'd have quantities and steps for those two roads, I'm just speculating.

Greg Robertson: Oh yeah, we have all that stuff.

Mike Sehestedt: (inaudible) the contracts are change ordered and simply...it gets us into a creation problem.

Greg Robertson: Yeah.

Mike Sehestedt: Let me withdraw that. It's perfectly clear that everyone who lives on Fire Bucket Loop drives on Tookie Trek, unless they drive on George Cates.

Greg Robertson: Uh huh.

Mike Sehestedt: You can't get there without that.

Commissioner Carey: And that's the benefit from the point of view of the RSID creation?

Greg Robertson: Yes.

Mike Sehestedt: Plus a significant segment adjacent of Fire Bucket Loop that is paved as well. Also, access in from either side is paved either through George Cates or Tookie Trek...but it's a loop of the Tookie Trek that also connects to George Cates. For whatever that information is worth when you're looking at this.

Commissioner Carey: Well, how about the issue then of the level of protest. Both of the people who have made public comment say that it's not an accurate reading.

Mike Sehestedt: Well, here's the notice that went out and I say we were being liberal counting the protests, this may explain. This is a notice that was mailed to everybody; such protest must be in writing, identifying the property in the district owned by the protester and be signed by all owners of the property. That's what the notice said that got sent to everybody. By saying even if all the owners didn't sign it, we're going to count it because a person owns an undivided one half is taking the liberal count approach.

Commissioner Evans: The problem I have, I don't want to charge these people \$16,000 or \$32,000 as Mr. Mallum points out. I would like to see the road paved. I do not want them leaving here today thinking government doesn't care about them and that we just shove things down their throats. I'm not willing to vote for this RSID. I would suggest that, if there's a tie here today, you're going to have a problem until next week. If there is not a tie here today then perhaps you can go back and get all the signatures, or you can convince Greg to split it into two or three different ones. Something so that you don't leave here thinking we didn't care about you.

Mike Sehestedt: Barbara, it's not a matter of convincing Greg. What will happen if there's a tie vote is that a decision won't be made today on the creation of the district. The resolution of intent still stands in place. The project has been bid and we've probably got about 30 days left since the bid opening on our 45 day...

Greg Robertson: We opened bids yesterday.

Mike Sehestedt: Okay, so we've got almost six weeks, in terms of the contracts being available.

Greg Robertson: Yes.

Mike Sehestedt: The protest period is closed, there's not time to submit more legal protest. Politically, I would take their word for it that the husband and wife agreed. It doesn't matter. You guys either have to decide not to go forward with this again which means we reject the bids and then let these people come

back a third time with a new proposal. There was a window when we were looking at recreating the districts in which, as nearly as I can ascertain, nobody but the Homeowners Association did anything. The districts were re-created again; I don't know who we deal with as representatives if we don't deal with the elected representatives of the association.

Glen Sparks: Nobody knew that was taking place; that Lauren had continued moving on with this. I certainly didn't know.

Mike Sehestedt: Well, we're kind of at a...

Commissioner Carey: Yes, it's pretty frustrating that...

Mike Sehestedt: It's kind of a loss for us; we're dealing with somebody who's consulting with somebody as the homeowner's representative....

Greg Robertson: We had several meetings with Lauren who is the current association president and he had advised me prior to us initiating this that he was going to have something in his newsletter advising folks of it and that he was having a meeting to discuss it. So I'm sure there was some sort of communication that was happening, but....

Mike Sehestedt: We don't need to validate that it happened, that's the information that we've got to act on.

Commissioner Evans: So the option then, as I see it, is that we either approve it or we deny it and they go back and start over which I will apologize in advance to you, Greg. I know that our people have put in a lot of work; I know you want to roads paved; I'm just not willing to impose this kind of cost on folks when they feel an inequity here. I'm just not willing to do that.

Mike Sehestedt: That's fine. Coming to something that everyone agrees is equitable isn't going to happen, that's the punch line. We'll get other people in here the next time, I guess. I don't know.

Tom Devlin: We have like 18 people on Fire Bucket Loop who are going to sum up and be more than a mile from the pavement. My granddaughter – taking about the dust – my daughter spends over \$1000 a month on asthma medicine and I would like to see that road paved as much as anybody. But I've got two pieces up there and I'm on social security and it's really hard to take \$32,000 out of what I don't have.

Commissioner Carey: This is kind of confusing to me at least. Greg, you're saying that Fire Bucket Loop, or a large portion of it, isn't buildable?

Greg Robertson: Yes, that's correct.

Commissioner Carey: So we've got a problem there from an engineering point of view apparently.

Tom Devlin: Where I come from in Oregon, they make roads up and down hills all the time. I don't know what the problem is here.

Mike Sehestedt shows the layout of the roads on a map provided in the meeting.

Mike Sehestedt: To get to Fire Bucket Loop and if you're a mile from pavement, you're also probably driving an equivalent distance on, well not quite an equivalent distance, on roads that will be paved by this RSID. The fact is the people who live on Fire Bucket Loop will, as a matter of physical necessity, utilize at least a portion of the roads that are being paved. Now whether the total cost is appropriate, whether they should be included in the Tookie Trek or the George Cates district...how to split it up, those are questions for you. But it is absolutely physically impossible to get to any of the properties (I'm using legal access) on Fire Bucket Loop without utilizing roads proposed to be paved by one or the other of these two RSID's. That doesn't address the issue of the Jars Gang and Peaks Row paving, that's an issue for you guys, whether that should be a part of this big RSID or that should be done a separate project. I don't have the position, but Fire Bucket Loop will benefit in the sense of improving their access as a result of both of these RSID's.

Commissioner Carey: Did I understand you to say, though, that in the case of one spouse signing the protest, if the other spouse signs as well that doesn't increase the number of protests?

Mike Sehestedt: No, it would increase it. What we do is treat each spouse as if they own half the property – they're joint tenants for purposes of determining whether or not 50% or more of the property to be assessed is protested.

Commissioner Carey: But in this case didn't we count the signature of one spouse as valid for...

Greg Robertson: Some actually had both signatures on it. Those we counted as full. The ones that had joint tenancy, but only had one signature were counted as half.

Mike Sehestedt: And like I say, that is attempting to stretch things to make the protest as large as possible. The way the statute works and the way the notice that went out provided was that protest be signed by all owners of the properties. You want to be liberal in favor of the people when you interpret these things, but at some point you have to say it's a signed protest, there's a deadline for submitting signed protests, the deadline has passed, we've counted it as liberally as possible and...

Commissioner Carey: Well, I guess I'm not encouraged that after two years we're still at this point and giving it another six weeks...I don't know if you guys could come up with a better idea, a better sense of what's fair out there, but we're talking about tax payers money going into this process, the valuable time of our Public Works Director – he's got a very full plate and we don't need to tie him up like this.

Greg Robertson: I think the other thing that needs to be mentioned is that the association that's elected an outfit called Professional Consultants, Inc is their engineer who was selected by John Mazola and I've been working with them on and off for the last couple of years. They have incurred significantly more expense than we have, probably to the tune of \$70,000 – \$80,000 that they've invested in engineering and surveying cost to get this project to where it is today. They will be out because we don't pay them unless the district is created.

Mike Sehestedt: What I would say there is they're kind of like lawyers, taking a case on a contingent fee, so while they are at risk – that probably isn't decisive for you.

Commissioner Carey: Well there is a public health issue, too. That's just something that we have to acknowledge.

Mike Sehestedt: Greg, since this is an odd situation and we've bid the project and we know what the contract amount is, are we going to the full dollar amount?

Greg Robertson: No, most likely it'll be \$1000 less per property.

Commissioner Carey: Mr. Sparks?

Glen Sparks: As I've said before, as far as the engineering work that's gone into this – none of that's gotta get thrown away. That information is done and can remain. What we're asking for is to break the district down further, to break the roads up further, into multiple districts instead of a single district. That's all. Kill RSID 8482 and create three new ones that will split it up. Also, I find it – I don't mean to be argumentative, but as far as the signatures go, we're saying that the law says that we have to have both but then also the policy of the County says we have to have a 60% petition and we're waiving that. How come we're picking and choosing laws now too?

Commissioner Evans: A policy isn't a law.

Glen Sparks: Okay.

Commissioner Carey: Realistically I don't believe you can create three new districts within six weeks and still have this bid.

Greg Robertson: No.

Glen Sparks: Some of us are willing to wait, even if the prices go up, because we're paying for so much. I don't – there's 70% of Tookie Trek I don't drive on. And there's Jars Gang/Peaks Row I don't drive on. There's a small portion of those roads that we use to access Fire Bucket Loop, very small, in relationship to the whole project. If the prices go up 10% in the next year, it's still going to save us on Fire Bucket Loop a lot of money in the long run because we still have Fire Bucket Loop to think about. At some point in time somebody's going to say Fire Bucket Loop has to be finished and has to be paved and we're going to pay for it, along with roads that don't benefit us. That's the problem, that's the problem that we see and the problem that we have with this RSID. It's not the problem with paving. It's a problem with this RSID.

Commissioner Evans: And I have no problem with splitting it into smaller districts.

Commissioner Carey: I think Mrs. Lester has something to say.

Debbie Lester: I think that's the point of consensus here, is that everybody would like the paving done, so if I go back to think about this we can agree on and the paving is a good thing for many many reasons – for the dust and the animals and the kids with asthma and that. There is no guarantee as I have just learned, having spoken two years ago, that the cost is going to be any better. In fact it may be worse. We don't know with Fire Bucket, Glen, if the portion of Fire Bucket Loop that is not included in the RSID won't have costs that are far beyond the means of any paving company to do. I know that something can be done, but something may not be able to be done according to County specs and it's that County spec issue that I believe drives a significant portion of the cost because of drainage and the road widths and all that. So, if I were – I can totally see breaking it up, but I don't think there's much benefit to doing that. I think that the roads, there's consensus on the paving, the cost is an issue – if there's a way to address the unpaved portion of Fire Bucket Loop within this RSID, that may be enough to appease the Fire Bucket Loop landowners and that's a question for Greg.

Commissioner Evans: Greg, this is the RSID that you asked the County if we would contribute \$15,000 to?

Greg Robertson: No.

Commissioner Evans: It isn't?

Greg Robertson: No.

Commissioner Evans: Well, we've got a problem.

Mike Sehestedt: We may wind up not being able to make a decision today and having to continue it to next week. That's certainly (inaudible) capabilities. One thing I should point out is that for whatever merit it has, this is being assessed on a per unit basis and there are a lot of units on Peaks Row and Jars Gang. So in terms of percentage of cost, they're probably pretty well stuck. Maybe if re-create these things ought to be assessed on an area basis or something like that, so that the large landowners, who have more opportunity to divide will wind up paying more. I don't know if that's a good idea or not. This was chosen to call way back when, because it focused on who was currently using the road and it was a per unit assessment basis. And you can do it on frontage, or on square foot, it spreads the cost more to the larger parcels than the per unit basis does. That's a big issue. We've actually had some subdivision activity out there during the course of this, haven't we Greg?

Greg Robertson: Yes, we've had – since we initially created the district, the one that was rejected the year before last, there have been several parcels that have been added that actually drove the cost downward through family transfers and the like. When we reran the assessment roles, when we plugged in the new dollar amount that we had – our engineers estimate after the market correction occurred – the estimates, if we used the old tax role would have been closer to \$20,000. Because of the additional parcels that have been added through family transfer or subdivision, it drove the per unit cost down to around \$16,000.

Commissioner Carey: Well, for a technical process point of view, if we have a divided vote on this it stays alive, theoretically, the proposal.

Mike Sehestedt: You can either kill it or create it as long as two of you are voting on separate sides. Then it would be preserved (inaudible) to come before the board a week hence.

Commissioner Carey: Okay, I would like to give the process more time. I guess, as I say, I'm not terribly encouraged about the prospects but it would be good to reach some sort of agreement if you can.

Mike Sehestedt: One thing – if this will be action on one district, you have a second district but the bid, as Greg just described, this was bid as a unit to try and hold the cost down, so we create one and reject one we're going to have to re-bid it again I think.

Greg Robertson: Most likely, yes.

Commissioner Carey: I'm just saying that if there's a tie vote, it keeps the...

Mike Sehestedt: Tie vote, no action is taken on a tie vote, so if you move to create it and Barbara votes against it then no action happens becomes a (inaudible) item.

Carl Flood: I live on O'Keefe, are we going to take up our SID 8483 later?

Greg Robertson: Yes sir, that's the next one to be considered.

Carl Flood: Okay.

Commissioner Carey: Should we keep it alive for...?

Mike Sehestedt: Yes, you might avoid any sense of acrimony and antagonism by moving to just continue it for a week.

Commissioner Evans moved to postpone action on this for one or two weeks. Commissioner Carey seconded. The motion carried on a vote of 2-0.

Glen Sparks: What does that mean?

Commissioner Carey: It means, to me it means, that we need to take a look if in fact the majority of people support the creation of the RSID. It sounds as if there's some...I know the time has passed, but...

Mike Sehestedt: The thing is, I can only advise you on legal and when I say legal protest, I mean protests that carry with them by operation of the law certain consequences. The time has passed for that. The time is always open for protests and policy considerations by the board. Does that clarify?

Commissioner Carey: Yes. So we're going to see if we can maybe get a proposal from somebody about what would be fair to do and doable out there and/or see whether or not in fact a majority of the folks support the creation of the RSID. That seems to be in question right now by virtue of the way we gather protests. Mr. Sparks?

Glen Sparks: I have my own ideas of what I think would be fair, but it seems to me, two weeks obviously isn't going to get - it won't be enough time for us to – I can sit down with Greg and let him know what I think but I'm standing here saying that I want, that we want, the majority of us to be heard. So for me to go forward and put something together without getting the input of the majority, to me it needs to be re-created as separate SID's. We're not asking for the rest of Fire Bucket Loop to be paved, we're only asking for – and we're not asking for it to be assessed any differently, I don't think there's anything wrong with the per unit assessment I think that's probably the right decision. We're asking for the district to be broken down so that those of us who are paying for roads that we don't benefit from now, it will lessen the burden on us because we still have Fire Bucket Loop to think about. While we're not asking for it to be paved, nobody is, at some point in the future I guarantee somebody will require it to be paved and we're going to pay for it, not Peaks Row. Not Tookie Trek. Just Fire Bucket Loop.

Commissioner Evans: I'm going to ask you to come up to the board here and draw the area and show me how you'd like it broken down.

Glen Sparks: Part of Tookie Trek benefits everyone. We all drive on that part of Tookie Trek. That's the only part that is shared by everyone. That's the only part that we have to drive on to access Fire Bucket Loop. I would propose that section of Tookie Trek as one district assessed to everyone included in this

proposal. From here up to here, would be assessed to this part of Tookie Trek and Peaks Row and Jars Gang. Jars Gang should be their own SID, responsible for themselves and Fire Bucket Loop should be its own SID responsible for itself. That would be fair.

Mike Sehestedt: Greg, correct me if I'm wrong, but which section is this area being paid by? (*referring to the section used by everyone*)

Greg Robertson: By the Tookie Trek one, a portion of it.

Mike Sehestedt: So...we've got a fourth district here that's being paved adjoining Fire Bucket Loop by this RSID which...

Glen Sparks: I think it's about 300 feet from O'Keefe Creek south on Fire Bucket Loop that's on the O'Keefe Creek portion of this which just seems odd to me.

Mike Sehestedt: I'm not sure where we'd break that.

Greg Robertson: It was broken on ownership. The line that was chosen was an ownership line break.

Commissioner Evans: Is there some reason you couldn't do this?

Greg Robertson: Well, anything's possible. We can keep re-creating and re-creating and re-creating, I've worked with the association leadership to come up with the most equitable methodology and our bond council to do so. I suppose it can be done any way that's desired. I think the changes, however, in requisite costs are going to be fairly significant to certain property owners. That's part of the reason why the method of equal assessment and break that we had developed with Mae Nan seemed, to her, the most equitable approach. We discussed the district boundaries with her and she seemed to think that was the reasonable approach to do that. I can, tomorrow, can run the numbers based on that assessment methodology and come up with...

Mike Sehestedt: What I wanted to point out was this illustration here...we've got one district, two district, three district, four district and nobody's paying to pave four district. Anyway...

Tom Devlin: We have taken into consideration that piece of property in the fourth district. The properties that are on Tookie and Fire Bucket and if that ever goes through we have to assess differently so that they aren't charged twice.

Commissioner Carey: And you're pointing out Lots 31, 25 and 60.

Tom Devlin: Lot 60, because he accesses it and this property here is actually accessed by Fire Bucket Loop, not O'Keefe Creek. I don't know how it got on there.

Commissioner Carey: Okay. We're referring to Exhibit A on RSID 8482.

Mike Sehestedt: For the record, that shows the area to be assessed for the RSID as proposed.

Commissioner Carey: I think Commissioner Evans and I are just saying that we don't want to kill this today, we'll give it some more time and maybe something can be worked out.

Glen Sparks: Mr. Robertson, I wouldn't mind being involved in any work you do on this as far as breaking out. I could give you my card, I would be happy to help.

Greg Robertson: You know how to get a hold of me, I'll be working on it tomorrow morning. Come on by.

Glen Sparks: Okay.

Commissioner Evans: I'm persuaded by his logic. I'm persuaded by his arguments.

Seeing no further comment, Commissioner Carey closed the hearing.

Commissioner Evans: Michael has something else to say.

Mike Sehestedt: Yes. Greg you're basically just going to take the quantities off the...

Greg Robertson: Well, I'll have to do some material take off work and pretty much kill my day tomorrow working on it. But yes I can come with what the assessments would theoretically be if we went four different districts.

Resolution to re-create RSID 8483 (Paving of O'Keefe Creek Blvd Area)

Commissioner Carey opened the hearing.

Greg Robertson: Before you is a request to create RSID 8483 to pave O'Keefe Creek Blvd. and related roadways. This is again a re-creation as bids were rejected previously. The work to be done is to pave O'Keefe Creek Blvd. up to Fire Bucket Loop and down to 93 as well as some related roads that intersect with O'Keefe Creek Blvd. Last month you signed a resolution of intent to create the district, we provided individual notices to affected landowners in the district. As well as published an advertisement in the paper outlining the proposal. As of last night, we have received zero protests to its creation, in writing. Our recommendation is to create the district as proposed.

Carl Flood: I live on Tract 38 on O'Keefe Creek. I think I approve the road being put in. I think we should have done it a long time ago, it would've been a lot cheaper. But I know next year will be more expensive than now and I don't have any neighbors that object to it, at least that I've talked to. I'm sure they're all interested, like I am, what the current cost is going to be.

Commissioner Carey: Can we tell him that?

Greg Robertson: The current – I don't have the breakup right now – but the bid came in less than what we had estimated. So assessments would be dialed back accordingly because we can only assess for actual costs incurred. We use engineering estimates to determine for assessment purposes what the maximum assessment will be and hopefully they're conservative enough. If you would like I could go through that with you over the phone tomorrow, but it...

Carl Flood: Yeah, I could call you but...

Greg Robertson: It will be less than what your notice provided. Probably \$1000 per lot less, that's just my guess.

Carl Flood: What's your estimate now? 15 grand or 16 grand?

Greg Robertson: Probably 15, would be my guess.

Carl Flood: Now a question on the notice, is that it's 2 ½ inches of blacktop...

Greg Robertson: Uh huh.

Carl Flood: Is that strong enough for the street to take these big trucks that will be hauling concrete and garbage trucks? That garbage truck is pretty big.

Greg Robertson: Well, for the infrequent use of the roadways for vehicles like concrete trucks, etc, the section that we have chosen is adequate to support those loads. Service vehicles are well beneath that. Concrete trucks generally push the envelope, but they're more infrequent. So the cross section that we're using is adequate to support the loads.

Mike Sehestedt: A critical element of strength, Greg, isn't just the asphalt it's your sub-base and discourse?

Greg Robertson: Yes, that's correct.

Mike Sehestedt: Are you planning to use fabric on most of this?

Greg Robertson: It depends on the segment that we're using. Most of it does not need it, other parts will.

Mike Sehestedt: Okay, thank you.

Carl Flood: Is it – due to the re-doing of the 8482 is that going to involve us? Are we going to be held up since we're combined, we're joined with them?

Greg Robertson: At the request of the Homeowners Association, they requested that we expedite the process and in talking to bond council, the way to do that was to re-create the districts and bid it simultaneously since the design work had already been done and we'd bid it once. So we took that risk, combined them which actually had an economy of savings between the two. The short answer to your question is yes it will be held up until a decision is made on 8482.

Carl Flood: That's all I have. Thank you.

Commissioner Evans: Which of these, 8482 or 8483, is Mr. Mallum's letter referring to?

Greg Robertson: I believe that one is 8482. I'm pretty sure.

Commissioner Evans: Thank you.

Seeing no further comment, Commissioner Carey closed the hearing.

Commissioner Evans moved to approve the re-creation of 8483 on O'Keefe Creek Blvd in that there are no protests to its creation. Commissioner Carey seconded. The motion carried on a vote of 2-0.

Commissioner Carey: I'll second recognizing that if we don't approve 8482 we can't go forward with 8483 can we?

Mike Sehestedt: Well, no you can do it. We'll just have to see whether or not we can either...

Greg Robertson: We may be able to break it out...

Mike Sehestedt: Change order of the contract and go forward...

Greg Robertson: Presuming the contractor is willing to do so.

Mike Sehestedt: Yes.

Commissioner Carey: Oh, I see then.

Mike Sehestedt: We'll have to play with that a little bit. Certainly we can go forward with this one independent of the other one. I would note, however, and if I could go to the white board and the illustration that we have...let us consider this to be Highway 93 (in the upper portion of the drawing). O'Keefe Blvd connects to Highway 93. To get to Waldo Williams Road from that point on O'Keefe requires traveling on roads that would be paved by the other RSID. So they'll have to go up 93 and come down if they want to stay on the pavement all the way, if we don't create the other RSID.

Commissioner Carey: Thank you Michael. We'll move forward with 8483 then.

BID AWARDS

Epoxy paint striping (*Postponed from August 16, 2006*)

Greg Robertson: Before you is the bid award for epoxy paint striping on County roads. We solicited bids from responsible contractors to perform the work. We received on bid from Pro Mark out of Lolo in the amount of \$99,818.73. This was well beyond their initial estimate and my budget amount of \$75,000. The reason why it was postponed is because we wanted to determine whether or not we could actually purchase paint from our supplier. We were able to do that this past week, so our recommendation is to reject the bid as presented.

Mike Sehestedt: This bid was for the product applied in accordance with our directions?

Greg Robertson: Correct.

Mike Sehestedt: So what we're going to do is simply buy the product and apply it with own forces.

Greg Robertson: Yes, correct.

Commissioner Evans: Tell my why we did a bid on it anyway.

Greg Robertson: We bid it – actually we had budgeted to do that and we had contacted Pro Mark to work up an estimate for budgeting purposes for this year. Their bid came in substantially higher than what they had initially told us and it was well beyond what I have budgeted to perform the work. We, with local forces – our own crew and our striping machine – can do it for below our budget amount. Therefore we're rejecting bids.

Commissioner Evans: I'm confused...I'm looking at the wrong thing that's probably why I'm confused. Okay so you want us to reject the bid and you'll do it in house.

Greg Robertson: That's correct.

Commissioner Evans moved to reject all bids and all for the work to be done "in house". Commissioner Carey seconded. The motion carried on a vote of 2-0.

Commissioner Carey: Next we'll postpone any action on the bid award for RSID 8482.

Greg Robertson: And 8483.

Commissioner Carey: And 8483. We'll postpone that until next week?

Greg Robertson: Nope.

Commissioner Evans: We can't award 8483 and (inaudible) the contractor?

Greg Robertson: No, because the way we did it, as it's done right now it's a single contract. We did do separate schedules and the only common element that they have is the mobilization. We will – I can contact JTL Group who was the apparent low bidder to see if they're interested in breaking it out. They may or may not be. If they're not, then the likelihood, if 8482 isn't done, is that recommendation for a rejection of bid.

Mike Sehestedt: And re-bid it a third time.

Greg Robertson: Yep. Bid it a third time.

Commissioner Carey: Okay.

Seeing no further business, Commissioner Carey recessed the hearing at 2:45 p.m.