

Public Meeting – September 6, 2006 Commissioner Carey called the meeting to order at 1:30 p.m. Also present were Commissioner Curtiss, Commissioner Evans, Chief Deputy County Attorney Mike Sehestedt Director of Public Works Greg Robertson and Assistant Directors of Public Works Tim Elsea and Chuck Wright.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Phyllis Jamison: From Clinton. I've tried all the different alternatives and solutions that I could think of before coming to talk to you today at this meeting. I did pass out, to each of the Commissioners, a map of the area that I'm talking about and referring to today. Basically my concern, and I'll give you briefly the reasons why, but my concern is that my house is located here – well it's not really on the map – but my driveway is located in a situation where the neighbor of mine who owns this shed that you see in the pictures I've provided to you. The shed and the fence that go around the shed take up virtually all of Woodville Avenue, the whole entire width of it 60 feet. And I haven't complained about it up to this point. I knew about this map having received it when I came and testified in support of my prior neighbors – the prior owners – of that house and their desire to vacate four feet along the side of their house. And County Attorney Mike Sehestedt said at that time that's all they wanted to grant was the four feet just so the neighbor wouldn't have to stand in the street to – or so he wouldn't have to stand in the street to paint his house. In other words they wanted to clear the house so that it could be sold and financed. However, it forces me to drive over my neighbors two lots. One of them in a substantial way and the other partially in order to get to the nearest intersection and why that's a problem for me now is my neighbors on the other side, who own the greenhouses, have become – well their business has flourished and they've added more greenhouses and there's more traffic back there. I'm real happy for them. They're good neighbors. But it's busier so I wanted to put up a privacy fence to go all the way around and in order to do that I got the survey map out again to look at it because I thought I really need to have – I want the fence to fit exactly on the property line. I don't want anyone else who would ever buy my property to have to have the same problems I did when I moved in of discovering that my house in the street and that the surveyor who came out said it probably wasn't my real estate agents fault – there was a red line that had been whited over and there was some confusion there, but I could try and fix it with the Commissioners and you did let me take it out of the street. All of my neighbors approved and all my neighbors signed that they agreed that that street should be vacated. Well, okay, so I want to straighten up this other part of my property where the fence is. My fence goes out into the right-of-way a little bit and I want to pull that way back in so that it does not intrude at all into the right-of-way. Then I want to place my fence and rearrange my gate so that it enters onto Woodville Avenue and then I'll have access going up Woodville Avenue. All I'm asking for is just the smallest little portion of that shed to be removed so it would allow me to do this. I talked with my neighbor about it on the phone and he doesn't want to do that. He refuses to even do that. First I said he could leave all but – there's one part of the shed that is enclosed by a door and two or three windows – and I said he could leave that. He didn't like that idea, so I said he could leave also the middle portion that would be fine with me. I just want to please take out the part of the shed that looks more like an overhang and it's only enclosed on two sides and one of the sides is because it's attached to the main building. It's more of a lean-to really. He refuses to do that as well. If he would just remove that part of the shed – that little bit there that's in the pictures and take down the fence then I would have access up to Third and Woodville. Now when I talked with Chuck Wright about this he said that it sounded to him like what I was talking about was a very reasonable thing. He said however from what he looked up on the work order here that the street is not a maintained street at this time and so he said the decision would have be made the Commissioners and my next step would be to take it to the County Commissioners to try and get a decision on getting an encroachment letter to go out and asking this person to remove or telling this person, directing this person to take off that portion of the shed. I was talking to Mr. Wright at that point about taking out the whole shed, but now I'm down to I will stay with what I offered as my final offer to my neighbor. Actually, he refused to talk to me, my neighbor did – he just got mad about it and it went between another neighbor of mine stepped in and started talking and relaying messages back and forth between us. And I will stay with, I'm happy to stay with just that one, asking for that one portion to be removed. But that would give me access for myself, emergency vehicles, friends, relatives so that I could put my fence and my gate on my property line and have access up to Third Street.

Commissioner Curtiss: Mrs. Jamison could you clarify for me which lot do you live on? What's the number?

Phyllis Jamison: On number eight. So, on this particular map it's really not there. I could have given you a bigger map, but this one details the area. But it is Lot 8.

Commissioner Curtiss: So it's right below number nine on the map.

Phyllis Jamison: Yes. Yes, that's exactly right.

Commissioner Curtiss: And how do you access your property now? Do you come down this driveway from Third or do you come in from another way?

Phyllis Jamison: I come – that's the only way I can come in is on that driveway from Third. Thank you for asking because I should say in the back of my property, my property goes up on a hillside. Clinton's pretty much based on a tiered layered system and on the back of my property is a steep hill on my whole property, so there's no way – I don't even have a back gate to my property. There's no, or a back door to my house, there's no way that I could possibly drive down the back especially in the winter time. It would be so slippery on that steep hill. It just wouldn't work.

Commissioner Curtiss: So what you're really asking us it that you would prefer to be able to come out of your – right now you drive through Lots 9 and 10 to get to the driveway.

Phyllis Jamison: That's correct.

Commissioner Curtiss: And you would like to be able to come out of your property onto what's marked as Woodville and come up the road that's shown on the map, even though it's never really been built YET.

Phyllis Jamison: That's...that's correct – built as a road – well, yes, right exactly. It's usable as a road. I'm using that portion of it over to the right as a road, but you're right. And as a matter of fact where that word says right-of-way right next to the woodpile, that's where I would want to be coming out.

Commissioner Curtiss: Okay. Alright.

Phyllis Jamison: Oh, I should mention one other thing. That's actually the only place along that side – the other side of my property is up high on the hill. This side of my property – that's the only place that I can exit my property because that gully – and you can see where it says top of fill approximately 12 feet and it goes along – well very very soon after my wood pile, it starts to drop off very very steeply. You couldn't drive a four-wheeler down there, you couldn't drive anything down there. I in fact forgot, after having a back injury I hadn't been down there in a few years and I walked down there just a few weeks ago and fell because I'd forgotten how steep it is and injured myself again, but anyway, it's very very steep there. So the only way I can get out of my property is to go through where that little sign says right-of-way, that's actually where I would want to put my gate, facing Woodville Avenue. That also would enhance the value of my property. I wanted to get it appraised for possibly selling it and the real estate agent told me I really need to get this cleared up before getting the appraisal because it's going to be better if I have my right-of-way onto the street that is a County right-of-way.

Commissioner Curtiss: Do you own Lots 8,9 and 10?

Phyllis Jamison: That's correct.

Commissioner Curtiss: Okay.

Phyllis Jamison: But I'm having to use 8 and 9 as the driveway now and I'd rather use the street and not have to take up space for that. When anybody comes into my lot on Lot 10, people – workers or anything – they run down – and I never criticize or anything, they can't help it – they run over my herb beds. I have mullet that I grow for tinctures and things and it's just part of my business and all of that gets – people use that for parking and stuff – but if they could come in this way I could provide a place for them. I did want to mention just one other thing that when the – I am not doing this in preparation to try and get the County to start plowing my road again. That's not my goal here. As a matter of fact at the time that I spoke in favor of my neighbors wanting to abandon that four feet I asked County Attorney Sehestedt at that time, is that the only thing that's in the right-of-way is just the shed and he said yes. As it turns out there's also septic

system in there. I'm not complaining personally about a septic system. It's a failing septic system that's in the street and it's going to be replaced. But someday Clinton may need a – you may need to use that street. It doesn't look like it now, but Clinton's popping and booming with developers as you know with the Rock Creek Subdivision and there's the 500 – you know more about it than I do, I'm sure – and as soon as those go in and as they are people are beginning to see that Clinton's a wonderful place to live. It's pretty close to town, easy to drive to, beautiful drive and a safe drive on the interstate, just 20 minutes away. And every little square inch is going to be developed and you may want to develop this street someday. So I'm just taking the first step of trying to make sure – at least this portion of it is being used as a street. Now I'm not making a formal complaint about a septic, he wants to replace it with a different septic and still leave it in the street because he's got his plumbing there, I'm not complaining about that either. But I'm trying to be as reasonable as I can here.

Commissioner Carey: I have a question for Mr. Sehestedt, if I could? In terms of process, Mike, don't we need some sort of proposal in front of us? I'm a little...

Mike Sehestedt: Well there's no action you can take now.

Commissioner Carey: Right.

Mike Sehestedt: Because it's not an action item.

Commissioner Carey: Is this sort of an informational thing, then?

Mike Sehestedt: Yes, she's making comment to you under the public comment section of the program. If as a result of this you want to direct me or Public Works or somebody else to do something, then you can do it, but we need to do it at a properly noticed meeting. It sounds like what she wants is an encroachment letter written and us to require her neighbor to remove his encroachment from the public right-of-way.

Phyllis Jamison: That's exactly correct. I should have said it more clearly. That's what I would like to state that is what I want and make that a formal request.

Commissioner Carey: Okay, who would write the encroachment letter?

Mike Sehestedt: That would be me.

Commissioner Carey: That would be you. Alright, well I think we then need to start there.

Commissioner Curtiss: So should we then refer the comment presented by Mrs. Jamison to an admin meeting tomorrow?

Mike Sehestedt: Yes, refer it to an appropriate admin meeting. I don't know what your calendars are. And take action on it if you want to, directing me or Greg or somebody to do something.

Commissioner Evans: Was the person whose shed is in the way ever granted an encroachment permit?

Mike Sehestedt: Charlie and I have been trying to research that since Ms. Jamison came in. My belief, and correct me if I'm wrong, is no. It was the subject of some discussion back when and at that point the shed was basically described as valueless and the guy was going to tear it down – or whoever he sold to was going to tear it down. The big thing for him was that his house was in the public right-of-way, a couple of feet of it and he needed to clear that up so he could sell it. I think he was a veteran, if memory serves me, and there were some VA issues involved. Commissioners granted the vacation, but to the best of my knowledge no request was made for an encroachment permit and none was granted.

Commissioner Carey: Mike would it be timely for us to refer this to our administrative meeting on the 12th? Or is that too soon for you?

Mike Sehestedt: That's fine by me. Whenever.

Commissioner Carey: Is that alright with the other Commissioners?

Commissioner Curtiss and Evans: Yes.

Commissioner Carey: So we'll refer this to our administrative meeting on September 12 in room 204 at 10:00 a.m.

Phyllis Jamison: 10:00 on Tuesday, September 12? That's something that I could attend?

Commissioner Carey: Certainly.

Phyllis Jamison: Thank you very much for taking that.

Commissioner Curtiss: Do you need your pictures back or can I keep them for our file?

Phyllis Jamison: You may put them with the file for discussion. I might eventually like them back, but keep them for as long as you need them.

ROUTINE ADMINISTRATIVE ACTIONS

Commissioner Evans moved to approve the Weekly Claims Lists in the amount of \$429,522.01.

Commissioner Curtiss seconded. The motion carried on a vote of 3-0.

DECISION

Petition to Abandon 10 feet of utility easement on Lot 8 of Glacier Estates

Commissioner Carey re-opened the hearing.

Greg Robertson: Yesterday at 11:00 a.m. Commissioner Evans and myself visited the subject property for the easement which currently is 30 feet in width. The petition is requesting 10 feet of that to match up with the easement through Golden West Estates immediately to the west of this property to be consistent. After viewing the proposed abandonment, it is our recommendation that it be granted as presented.

Commissioner Evans: Before I make any comments, I'm wondering if there's anyone who wanted to comment on this to give us their concerns because I know there was some dissention on the issue.

Commissioner Carey: Sure, is there anyone here who wishes to speak to this?

Commissioner Evans: The issue that I understand was the point for the neighbor was lack of drainage and there was a little drainage swale and I'm thinking if there still is a problem with drainage who would be the one that would be require to make that a deeper and wider swale? Or do you see any problem with the drainage as it sits?

Greg Robertson: No.

Commissioner Evans: The little map that you have in your packet here is accurate. The place where you see the crosshatched lines is currently dirt. It looks to me like it's ready for planting of landscape and whatever. There's already fencing there. It's nicely done and the neighbor on the south, if my directions are correct, is behind a very long row of trees so I don't even think that – unless he struggled – that he'd even have to look at this. I think it would improve it and I don't see any reason not to grant it.

Commissioner Carey: This is a continuation of a hearing I believe we opened last week.

Mike Sehestedt: Yes it is.

Commissioner Curtiss: I'd just like to put on the record the concern that was – and I thought that the person would be here today, but is not – is that there was a drainage plan for Glacier Estates that hasn't been followed and it has impacted his property. So if you don't feel this makes a difference to the drainage plan I guess they can deal with in another way.

Tim Elsea: I would like to mention that since the original complaint was brought to my attention the adjacent homeowners of the complainant have greatly increased the drainage capabilities. The little swales that you saw – two of those have been dug out and they're filled with drain rock, so they're much larger than what

they appear on the surface. A berm has been built between one of the adjoining neighbors and the complainant to ensure that water cannot go over to the complainant's property. Neither of the adjacent homeowners were legally bound to do this because there were no – as the plat went through there was a drainage plan but there were no drainage easements granted on that plan. So in essence they were not required to do this, however to ensure that they didn't flood their neighbors they went in and spent a significant amount of time and money to improve the drainage there and I think they did a very very good job.

Seeing no further comment, Commissioner Carey closed the hearing.

Commissioner Evans moved to grant the request to abandon a 10 foot easement of the southern portion 30' PP/BE/EAE located in Section 14, Township 13N, Range 20W in Lot 8 of Glacier Estates. Commissioner Curtiss seconded. The motion carried on a vote of 3-0.

HEARING

Petition to Alter Deadman Gulch Road (aka Cochise Drive) – Highway 93 S.

Commissioner Carey opened the hearing.

Chuck Wright: If you'll look at your exhibit, we have along with the state of Montana, built a new road and we're going to alter the old location that went down to the hairpin turn and came back and moved it to the check marked area on the exhibit. The portion that we're altering is the one that's the dotted area that comes back and goes right straight across. It's since been paved and we've got a certificate of survey for it, so this is just cleaning up the stuff that we need to do.

Commissioner Curtiss: Do we need to verify the petition or anything? We have poor Kim come to our meetings and we don't even ask her to do anything.

Mike Sehestedt: I think the petitions, I think there's a statement with your packet that says it's been verified. I think that covers it.

Commissioner Curtiss: Just one clarifying question for Chuck. The part that has dots on it, we're going to move to match where the crosses are, but we'll leave the existing County road easement the one that goes straight?

Chuck Wright: That particular easement the state of Montana does not want to get rid of. They want that because it's right along the fill line and they don't want that gone, they want it there.

Commissioner Curtiss: Okay. Thank you.

Brady Anderson Wood: My parents-in-law own the property that we're talking about and I just wanted to clarify the easement up along – or the old easement along the hillside is going to be abandoned? It's not the...okay just wanted to make sure that the old easement was abandoned. Okay. Thanks.

Commissioner Carey: Okay, so we'll have to take a look at this. Is it Commissioner Curtiss to go next?

Commissioner Curtiss: Yes.

Commissioner Carey: We can't act on this today, we have to have somebody from Public Works or the Surveyor's office along with a Commissioner and go out and actually, physically inspect the site.

Commissioner Curtiss: Does Friday morning work for you, Chuck? 9:00?

Chuck Wright: Yes.

Commissioner Carey: Okay, that will be the visit then. We'll recess this hearing until next week, September 13.

Seeing no further business, Commissioner Carey recessed the hearing at 2:00 p.m.