

PUBLIC MEETING – JUNE 18, 2008

The Public Meeting was called to order at 1:30 p.m. by Chair Jean Curtiss. Also present were Commissioner Larry Anderson, Commissioner Bill Carey, Chief Civil Deputy County Attorney Mike Sehestedt, and Assistant Public Works Director Charles Wright.

Pledge of Allegiance

Public Comment

Routine Administrative Actions

Commissioner Larry Anderson moved that the Board of County Commissioners approve the weekly claims list in the amount of \$563,943.30. Commissioner Bill Carey seconded the motion. The motion carried on a vote of 3-0.

Decision (from June 11, 2008 Hearing): Petition to Abandon a Portion of an Unnamed Road Bordering Reeves Addition

Chairman Jean Curtiss opened the hearing.

Today we have a decision from a hearing that we held on June 11. We received a petition to abandon a portion of an unnamed road bordering Reeves Addition. I believe Commissioner Carey and Chuck Wright visited the site, so we're ready for the report.

Charles Wright presented the staff report.

Bill and I went out and took a look at that particular road and we realized that there's no reason to keep that road, that's a good one. We also looked at the same time to the east of that particular road; we should not abandon that portion.

Chairman Jean Curtiss: So the request was just to abandon in one ownership?

Charles Wright: Yes.

Chairman Jean Curtiss: This is a--do you have anything you wanted to add, Commissioner?

Commissioner Bill Carey: No, Chuck's got it.

Chairman Jean Curtiss: This is a hearing that's still open, any comment? Seeing none, I'll close the hearing and accept a motion.

Commissioner Bill Carey: Michael, I can never remember, do we accept this petition?

Mike Sehestedt: Grant the petition to vacate that portion of road.

Commissioner Bill Carey made a motion that the Board of County Commissioners grant the petition to abandon a portion of the unnamed road bordering the Reeves Addition as described in the staff report. Commissioner Larry Anderson seconded the motion.

Mike Sehestedt: I think you accept. Once it's been determined to be to [inaudible] sufficient signatures [inaudible] accept it and proceed to hear it and take action.

Chairman Jean Curtiss: Any further discussion?

The motion carried on a vote of 3-0.

Chairman Jean Curtiss: We'll be sending a letter out.

Hearing (Certificate of Survey): Koetter Family Transfer

Chairman Jean Curtiss opened the hearing.

Mike Sehestedt presented the staff report.

This is consideration of a request to create a family transfer parcel for that parcel described as Tract 2 of Certificate of Survey 6029; Section 30, Township 16 North, Range 19 West. Michael E. and Lisa M. Koetter have submitted a request to create one parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 10.02 acres in size located near the Arlee, Montana. Michael and Lisa propose to create one approximately five acre parcel for transfer to Michael's father, Michael Koetter Sr., for residential purposes and to keep the remaining approximately five plus (5.02) acre parcel for residential purposes as well.

The history of the parcel is as follows: Certificate of Survey #4593 was filed in 1996 for the purpose to retrace the boundary line, parcels 20 acres or greater. Certificate of Survey 5201 was filed in 2001 for the purpose of a gift or sale. Certificate of Survey 5518 was filed in 2004 for the purpose of retracing the existing parcel of land. Certificate of Survey 6029 was filed in March 2008 for the purpose of relocating common boundary. According to the records kept by the Missoula County Surveyor, the only exemption that these applicants have used to the Subdivision and Platting Act is:

Certificate of Survey #6029 03/11/2008 Boundary Relocation NE 30-16-19

My recommendation is that you consider a request to create a family transfer parcel by dividing the parcel described as Tract 2 of Certificate of Survey 6029; Section 30, Township 16 North, Range 19 West. That concludes my report.

Chairman Jean Curtiss: Thank you, Michael. Is Michael or Lisa Koetter here? Okay, if one or both of you could come to the microphone. If you'd state your name for the record.

Lisa Koetter: Lisa Koetter.

Chair Jean Curtiss: Even though we called you the wrong name all the way through.

Mike Sehestedt: I'll call her several wrong names [inaudible].

Chair Jean Curtiss: Lisa and Michael, we have a list of questions that we ask on the record to make sure that you understand that you're using the family transfer exemption as it is provided for in law. Michael will ask those questions of you.

Mike Sehestedt: Let me make two apologies, first for mispronouncing your name and now that I've got my tongue twisted up with it, I'll probably do it again, so I'll just call you Lisa if you don't mind?

Lisa Koetter: Sure.

Mike Sehestedt: The second is some of these questions will seem like we're prying into private or family business and in some sense we are, but the purpose is to make sure that this is a legitimate use of the family transfer exemption and not an evasion of the Subdivision and Platting Act. I will apologize in advance for prying into your family affairs. About how long have you owned the property?

Lisa Koetter: We have been in since 2004, so about four years.

Mike Sehestedt: When you bought the property, do you buy with the intention of dividing it?

Lisa Koetter: No.

Mike Sehestedt: What caused you to decide to divide it now?

Lisa Koetter: My in-laws, Michael's parents, have lived in Salt Lake City for a long time. They are retired now and looking to move elsewhere. They do a lot of traveling and that and we have three of their grandchildren up here. We'd like them to be able to have a relationship with them instead of just visiting once in a while. Also, be able to help out with the kids instead of sending them to daycare [inaudible] after school.

Mike Sehestedt: Noble goals all. In that case, neither you nor your in-laws propose to transfer these parcels to somebody else within the next year?

Lisa Koetter: No.

Mike Sehestedt: Have you talked to anyone at the County about going through subdivision review?

Lisa Koetter: About going through the subdivision...?

Mike Sehestedt: Through a formal subdivision review.

Lisa Koetter: No.

Mike Sehestedt: Are you in the business of building or developing property?

Lisa Koetter: No.

Mike Sehestedt: Are you attempting to evade subdivision review?

Lisa Koetter: Not at all.

Mike Sehestedt: Do you understand that if the Commissioners approve the use of this exemption, they're not reviewing access to the parcels. They're not looking to whether or not they'll be adequate access in all weather for all vehicles, including emergency services to either of those parcels. Do you understand that?

Lisa Koetter: Right.

Chair Jean Curtiss: Could you speak into the mic please because Cathie has to listen to this recording later. So you understand?

Lisa Koetter: Yes, I understand.

Mike Sehestedt: Do you understand that should the Commissioners approve the use of this exemption, it doesn't mean that the property's approved for zoning compliance, for floodplain, for septic systems, for building permit or for any of the other approvals that may be necessary to use the property?

Lisa Koetter: Yes, I understand.

Mike Sehestedt: And that the Commissioners are not reviewing it to be sure there's a building site or any utilities available [inaudible].

Lisa Koetter: Yes.

Mike Sehestedt: Thank you. I have no further questions, Chairman Curtiss.

Chairman Jean Curtiss: Okay, I guess I have one question. The boundary retracement that was done in March of this year, in looking at the map here, it looks like, did you retrace to go down into the COS 5450? When you did the retracement was that to change a boundary line with a neighbor?

Lisa Koetter: Yes.

Chairman Jean Curtiss: Did that increase or decrease your property then?

Lisa Koetter: It increased our property.

Chairman Jean Curtiss: So on the map that was give to us, it would be the piece down here, you moved the boundary down like that?

Lisa Koetter: No. It would be the part that's highlighted there in yellow.

Chairman Jean Curtiss: Okay, in the yellow, so you had this smaller piece and now you have a bigger piece?

Lisa Koetter: Right.

Chairman Jean Curtiss: Any other questions for Ms. Koetter? This is a pubic hearing; does anyone else want to speak? Did you have anything you'd like to add or would your husband like to add anything, or the three little kids? Thank you. This is a public hearing, we do allow for other people to comment. Seeing no one come forward, we'll close the hearing.

Commissioner Larry Anderson made a motion that the Board of County Commissioners approve the request by Michael and Lisa Koetter to create one additional 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 Bill Carey seconded the motion. The motion carried on a vote of 3-0.

Chairman Jean Curtiss: It has been approved, you can start a surveyor to do work if you'd like. You'll get a letter from our office in a few weeks. Did you do this on your own or will it go to a--Territorial. The letter will probably go to them, is that who we send it to, Cathie?

Cathie Cichosz: I send them a copy also.

Chair Jean Curtiss: You'll get a copy too. Thank you.

Hearing (Certificate of Survey): Nelson (Brady) Family Transfer

Chairman Jean Curtiss opened the hearing.

Mike Sehestedt presented the staff report.

This is consideration of a request to create a family transfer parcel for that parcel described as Tract 27 of Certificate of Survey 79A, a tract of land located in the NE ¼ of Section 8, Township 14 North, Range 20 West. Brady Nelson has submitted a request to create three additional parcels using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 38 acres in size located off Fred Lane in Missoula, MT. Brady proposes to create approximately three six acre parcels for transfer to his three sons, Brady Nelson, Jr., Luke Nelson, and Lewis Nelson, all over the age of 18, for residential purposes and to keep the remaining approximately 20 acre parcel for residential purposes as well.

The history of the parcel is as follows: Certificate of Survey #79A was filed in 1974 creating ten parcels. According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act except the following:

Certificate of Survey 3358 with this property	07/31/1986	GIFT & REMAINDER	SE SW NW 29-13-15, not associated
COS 5435 with this particular property	07/02/2003	MORTGAGE EXEMPTION SURVEY	SW NW 19-12-19, again not associated

My recommendation is that you consider a request to create a family transfer parcel by dividing the parcel described as Tract 27 of Certificate of Survey 79A, a tract of land located in the NE ¼ of Section 8, Township 14 North, Range 20 West.

Chairman Jean Curtiss: Thank you, Michael. Mr. Nelson, could you state your name for the record please?

Brady Nelson: Brady Nelson.

Chairman Jean Curtiss: We'll have Michael ask you the same questions that he asked in the previous hearing.

Mike Sehestedt: At least I can pronounce your name, both Brady and Nelson. About how long have you owned the property?

Brady Nelson: I've owned it for about two years now.

Mike Sehestedt: When you bought it, did you buy with the intention of dividing it?

Brady Nelson: No.

Mike Sehestedt: Do you intend to transfer the remainder that you're going to be keeping within the next year?

Brady Nelson: No.

Mike Sehestedt: Do you know if any of your sons to whom you're transferring the property have plans to sell within the next year?

Brady Nelson: No, they're going to build on it.

Mike Sehestedt: I was correct when I said they were all over 18?

Brady Nelson: Yeah, yeah.

Mike Sehestedt: Will the property be developed?

Brady Nelson:

Mike Sehestedt: Have you talked to anyone at the County about going through subdivision review?

Brady Nelson: No.

Mike Sehestedt: Are you in the business of building or developing property?

Brady Nelson: No.

Mike Sehestedt: Are you attempting to evade subdivision review?

Brady Nelson: No. I'm not.

Mike Sehestedt: Do you understand that this request is not being reviewed for adequate access in all weather for all vehicles, including emergency services?

Brady Nelson: Right, I understand.

Mike Sehestedt: Do you understand that if the Commissioners grant approval for the use of this exemption, it doesn't mean the property is in compliance with restrictive covenants, if any, zoning, floodplain, or to get a septic permit?

Brady Nelson: Right, I understand

Mike Sehestedt: Because this is in the area of the Sunset West Water System, approval of the use of this exemption would not automatically entitle you to hook up...

Brady Nelson: I understand, yes.

Mike Sehestedt: ...[inaudible] lots. Okay.

Brady Nelson: Right, I understand.

Mike Sehestedt: The Commissioners make no guarantee as to the availability of [inaudible].

Brady Nelson: Right, I understand.

Mike Sehestedt: I have no further questions, Chairman Curtiss.

Chairman Jean Curtiss: Any questions for Mr. Nelson? Mr. Nelson, it just so happened today as we going through another file, the one that you had come talk to us about on Ridgeway came forward, which says that you own a construction company?

Brady Nelson: I own Triple A Construction; I generally do concrete and excavation.

Chairman Jean Curtiss: Okay, so you don't...

Brady Nelson: I don't ...

Chair Jean Curtiss: ...you're not a developer; you just pour the concrete and stuff?

Brady Nelson: Yeah.

Chairman Jean Curtiss: Okay. Are there any further questions for Mr. Nelson? I want to call you Mr. Brady because it says, Nelson comma Brady.

Mike Sehestedt: This is not a good day for names.

Chair Jean Curtiss: No, I bet we can screw up the next one too. Thank you. This is a public hearing, does anyone else want to make comment about this family transfer, the Nelson family? Seeing none, I'll close the hearing.

Commissioner Larry Anderson: Mike, just a question, does the other previous family transfer that occurred on this back in 86 have any effect on this or are there any relationships in between...

Mike Sehestedt: I believe not, let me ask Mr. Nelson to come back. I meant to ask about that. Thank you, Commissioner Anderson.

Brady Nelson: No, it's not because it was through my dad. I had to give back my dad a piece of ground up in Potomac.

Mike Sehestedt: Perfect answer.

Brady Nelson: It didn't have anything to do with this one here, because I'm gifting to my sons this time, so it should be fine. That's what Ken told me.

Chairman Jean Curtiss: Last time you gave one piece to your wife and one to your father?

Brady Nelson: Yeah, one to my wife and one to...

Chairman Jean Curtiss: Do you still own those properties?

Brady Nelson: No, I don't. We moved into town because it's too hard to drive all the time. [Inaudible] been there a long time.

Chairman Jean Curtiss: Okay, thank you. Any other questions that [inaudible]. If there's no one who wants to comment, I'll close the hearing if I didn't do that already.

Commissioner Bill Carey made a motion that the Board of County Commissioners approve the request by Brady Nelson to create three additional parcels by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

Chairman Jean Curtiss: You will get a letter from us within the next few weeks. Thanks.

Hearing (Certificate of Survey): Hayden (Larry) Family Transfer

Chairman Jean Curtiss opened the hearing.

Mike Sehestedt presented the staff report.

This is consideration of a request to create a family transfer parcel for that parcel described as GLO Lots 5 & 6, Certificate of Survey #3803, Section 24, Township 13 North, Range 23 West. Larry Hayden 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 24 acres in size located near Arlee, I believe.

Chair Jean Curtiss: This is the one...

Unidentified Speaker: Alberton.

Mike Sehestedt: Alberton, Petty Creek. Larry proposes to create approximately one nine plus (9.9) acre parcel for transfer to his son, Joseph L. Hayden, for residential purposes and to keep the remaining approximately 14-acre parcel for residential purposes as well.

The history of the parcel is as follows: Certificate of Survey 3803 was filed in 1990 to show a retracement survey of GLO Lots 5 and 6. According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

My recommendation is that you consider a request to create a family transfer parcel by dividing the parcel described as GLO Lots 5 and 6, Certificate of Survey #3803, Section 24, Township 13 North, Range 23 West in the Petty Creek area.

Chairman Jean Curtiss: Thank you. Mr. Hayden, could you state your name for the record please?

Larry Hayden: Larry Hayden.

Chairman Jean Curtiss: Thank you and we'll have Michael ask you the same list of questions.

Mike Sehestedt: Once again, if they seem kind of prying, it's the quickest way to get through this, so I'll apologize in advance, Mr. Hayden. About how long have you owned the property?

Larry Hayden: 12 years.

Mike Sehestedt: Did you buy the property with the intention of dividing it?

Larry Hayden: No.

Mike Sehestedt: Do you know if your son intends to transfer the parcel he's going to receive within the next year?

Larry Hayden: No.

Mike Sehestedt: Do you intend to transfer the portion you're keeping within the next year?

Larry Hayden: No.

Mike Sehestedt: Your son is not a minor is he?

Larry Hayden: He's 42.

Mike Sehestedt: That covers it twice plus.

Mike Sehestedt: Have you talked to anyone at the County about going through subdivision review on this parcel?

Larry Hayden: No.

Mike Sehestedt: Are you in the business of building or developing property?

Larry Hayden: No.

Mike Sehestedt: Are you attempting to evade subdivision review?

Larry Hayden: No.

Mike Sehestedt: Do you understand that if the Commissioners approve the use of this exemption, they're not reviewing either of the parcels for adequate access in all weather for all vehicles, including emergency services?

Larry Hayden: Yes.

Mike Sehestedt: Do you understand that if the Commissioners approve the use of this exemption, it doesn't address issues of covenants, zoning, floodplain, septic, or the availability of utilities?

Larry Hayden: I understand.

Mike Sehestedt: With that, I have no further questions, Madam Chairman.

Chairman Jean Curtiss: I have one for you Michael, the cover sheet that Mr. Hayden provided states proposed boundary relocation and gift for sale, so are we only reviewing the family transfer portion because it looks like there's currently a house, a cabin, and then the proposed new lot? So we're only talking about the family transfer part?

Mike Sehestedt: That's correct. The rest of it we'll address administratively.

Larry Hayden: That wasn't my understanding when I talked to my engineer.

Chairman Jean Curtiss: The County Attorney's office routinely does the boundary relocation, so it doesn't have to be decided by us.

Larry Hayden: Oh, okay.

Mike Sehestedt: Generally speaking, although there are exceptions, a boundary relocation doesn't have much ability to evade the Subdivision Action, so we wind up instead of making people come here [inaudible], we review them administratively in our office [inaudible] with this application.

Larry Hayden: I'm just following what my engineer says to do, so.

Mike Sehestedt: Your application is sufficient, it will cover both issues, just the Commissioners only need to...

Larry Hayden: I see.

Mike Sehestedt: ...look into your intent on the family transfer.

Larry Hayden: Thank you.

Chairman Jean Curtiss: I have a question for you, Mr. Hayden. It looks like in looking at the map, are you using the John's Creek as the new boundary, so your son would have...

Larry Hayden: Roughly, yes.

Chairman Jean Curtiss: ...the property south of that?

Larry Hayden: Yeah.

Chairman Jean Curtiss: Were there any questions for Mr. Hayden?

Commissioner Larry Anderson: The Tract #1 would be kind of a remainder, is that the way that works out?

Mike Sehestedt: Let me look.

Commissioner Larry Anderson: This is on the last page of the--they show the...

Chairman Jean Curtiss: That would be boundary relocation.

Mike Sehestedt: That's the boundary relation.

Chairman Jean Curtiss: And where is that boundary coming from? Are there already two tracts here?

Mike Sehestedt: There's another tract to the north of this. The current boundary, I think it's going to be from COS...

Chairman Jean Curtiss: 2365

Mike Sehestedt: ...2365. Yeah, I mean boundary relocation [inaudible] tract to relocate [inaudible].

Chairman Jean Curtiss: So our concern is about whether or not the proposed piece that he's going to give to his son meets the intent of the law?

Mike Sehestedt: Yeah.

Chairman Jean Curtiss: Any other questions? Thank you, Mr. Hayden. This is a public hearing; would anyone else like to make comment? Seeing no one come forward, I'll close the hearing.

Commissioner Larry Anderson made a motion that the Board of County Commissioners approve the request by Larry Hayden to create one additional 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 Bill Carey seconded the motion. The motion carried on a vote of 3-0.

Chairman Jean Curtiss: So I have one question for you Michael. We hear about GLO roads all the time, but I've never heard of GLO lots.

Mike Sehestedt: What happens because the earth--well, two ways they happen, one is because the earth is not flat. As you put a flat grid coordinate system on a ball, you wind up short from time to time a few acres. You can't describe it as [inaudible] 40, so they may be 38 acres, 29 acres, they're referred to as GLO lots rather than as quarter quarters because basically the curvature of the earth makes a section less than 640 acres. You can't--it's not a cylinder, it's a ball, so you wind up [inaudible] down, getting [inaudible]. The other is where you have a navigable lake or river and because that takes part of the land, the survey goes to the boundary. Again, you wind up something that's not aliquot part of a section, so it's described as a government lot.

Chair Jean Curtiss: We'll, we've had our civic lesson for the day.

Mike Sehestedt: I'm sure Charles could correct me [inaudible] two more eloquence and detail; that's basically it

Chairman Jean Curtiss: Mr. Hayden, you'll receive a copy of the letter soon also.

Other Business

Larry Hayden: I'm not sure if it's appropriate for here, but I'm certain if it's not, you can tell me where to go.

Chairman Jean Curtiss: Could you state your name again for Cathie?

Larry Hayden: Larry Hayden.

Chair Jean Curtiss: Thanks, Larry.

Larry Hayden: Periodically, the county has sprayed for weeds along our road. I was wondering if it might be done again this year. Last time we stepped on each other. A week after I sprayed my boundaries, you sprayed my boundaries. Kind of a waste of money.

Chairman Jean Curtiss: We do now have a new policy that we're going to be working on. Some roads, I'm not sure if yours is one, would you like someone to contact you and let you know if they're planning to do your section of road?

Larry Hayden: Yes, I would. My neighbors and I, we're concerned about our hay fields, so somebody has to spray.

Chairman Jean Curtiss: Right, what is your phone number, Mr. Hayden?

Larry Hayden: 864-2300.

Chairman Jean Curtiss: And what's your exact address on Petty Creek Road?

Larry Hayden: 4255.

Chairman Jean Curtiss: Okay, we'll have someone from Public Works call and let you know if that's the plan.

Larry Hayden: Thank you.

There being no further business to come before the Board, the Commissioners were in recess at 2:00 p.m.